

**TOWNSHIP OF CRANFORD
CRANFORD, NEW JERSEY**

ORDINANCE NO. 2021-04

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CRANFORD,
CHAPTER 255 LAND DEVELOPMENT, SECTION 255-68 MANDATORY
AFFORDABLE HOUSING SET-ASIDE REQUIREMENTS**

WHEREAS, in December 2018, the Township of Cranford adopted a Housing Element and Fair Share Plan, including a Master Plan Housing Element and Fair Share Plan to address the Township’s Third Round Affordable Housing Obligations; and

WHEREAS, in December 2018, the Township filed a declaratory judgment action, captioned *In re Application of Township of Cranford*, No. UNN-L-3976-18, seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

WHEREAS, the Fair Share Housing Center (“FSHC”) and the Township agreed to compromise certain positions regarding the Fair Share Plan such that each party agreed the Fair Share plan satisfies Cranford’s “fair share” of the regional need for low and moderate income housing subject to certain amendments to the Fair Share Plan; and

WHEREAS, on October 13, 2020, Cranford enacted Ordinance 2020-11, which, *inter alia*, included an affordable housing mandatory set aside ordinance, that Cranford now desires to amend to further the purposes of the Fair Share Plan; and

NOW, THEREFORE, be it ordained by the Township Committee of the Township of Cranford, Union County, State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Cranford, Chapter 255, Section 68 Mandatory Affordable Housing Set-Aside Requirements, is amended to read as follows:

§255-68 – Mandatory Affordable Housing Set-Aside Requirements

1. Purpose and Scope: This section establishes regulations to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Township, the Township’s Planning Board, or the Township’s Zoning Board of Adjustment that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20%) regardless of tenure, in accordance with the Township’s Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center (“FSHC”) regarding compliance with the Township’s affordable housing

obligations. This section will not apply to the Township's Overlay Zones, as said zones already has affordable housing set-aside requirements:

- i. Downtown Core District Overlay Zone
- ii. Downtown Business District Overlay Zone
- iii. Downtown Transitional District Overlay Zone
- ~~iv. Elise Burnside Overlay Zone~~
- v.iv. Park Street Overlay Zone

2. Affordable Housing Mandatory Set-Aside Requirement

- a. If the Township or the Township's Planning Board or Zoning Board of Adjustment permits the construction of multi-family or single-family attached residential development that is "approvable" and "developable," as defined at N.J.A.C. 5:93-1.3, the Township or the Township's Planning Board or Zoning Board shall require that an appropriate percentage of the residential units be set aside for low and moderate income households.
- b. This requirement shall apply beginning with the effective date the Ordinance creating this section was adopted to any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units, whether permitted by a zoning amendment, a variance granted by the Township's Planning Board or Zoning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.

~~For any such development for which the Township's land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date the Ordinance creating this section was adopted, this requirement shall apply only if the Township, the Township's Planning Board, or the Township's Zoning Board permits an increase in approvable and developable gross residential density to at least twice the permitted approvable and developable gross residential density as of the effective date the Ordinance creating this section was adopted.~~

d.c. Nothing in this section precludes the Township, the Township's Planning Board, or the Township's Zoning Board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

e.d. For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%) for all projects regardless of tenure.

~~f.e.~~ 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.

~~g.f.~~ This requirement does not apply to any sites or specific zones otherwise identified in the Township's Settlement Agreement with FSHC, which was executed by the Township on November 8, 2019, or in the Township's 2020 Housing Element and Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein. As such, this section will not apply to the Township's Overlay Zones set forth in §255-69(1), as said zone already has affordable housing set-aside requirements.

~~h.g.~~ Furthermore, this section shall not apply to developments containing four (4) or less dwelling units.

~~i.h.~~ All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.

~~j.i.~~ Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply if the net number of new dwelling units is five (5) or more.

~~k.j.~~ All inclusionary projects created under this section must comply with the affordable housing requirements in §255-68 through §255-87.

SECTION 2. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 3. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Cranford, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Cranford are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Union County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

SECTION 5. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Township of Cranford for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

SECTION 6. This Ordinance shall take effect immediately upon (1) adoption and publication in accordance with the laws of the State of New Jersey; and (2) filing of the final form of adopted ordinance by the Clerk with (a) the Union County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

Introduced:

Adopted:

APPROVED:

Kathleen Miller Prunty
Mayor

ATTEST:

Patricia Donahue
Township Clerk

RECORDED VOTE

INTRODUCED

ADOPTED

NOTICE

NOTICE IS HEREBY GIVEN, that the above Ordinance was introduced and passed on first reading at the Regular Business Meeting of the Governing Body of the Township of Cranford held in the Municipal Building on the ____ day of _____, 2020, and the same shall come up for public hearing at the Regular Business Meeting of the Governing Body to be held on the ____ day of _____, 2020, at ____ p.m., at which times any persons interested shall be given the opportunity to be heard concerning said Ordinance. Following the public hearing, said Ordinance shall be considered for final adoption.

, R.M.C.
Municipal Clerk

EXPLANATION – Matter struck through ~~thus~~ in the above Ordinance is not enacted and is intended to be omitted in the law. Matter underlined thus is new matter.