

**BOROUGH OF MANAQUAN  
ORDINANCE 2283-19**

**Ordinance Replacing Chapter 35 (Zoning), Section 35-38A  
Entitled "Inclusionary Zoning Provisions" with a section  
entitled "Affordable Housing Mandatory Set-Aside"**

**BE IT ORDAINED** by the Borough Council of the Borough of Manasquan, County of Monmouth, State of New Jersey, as follows:

**Section 1.** Chapter 35 entitled "Inclusionary Zoning Provisions" of the Revised General Ordinances of the Borough of Manasquan, Section 35-38A is hereby replaced in its entirety as follows:

**35-38A.1 Purpose and Scope**

- a. This Ordinance amends the Borough land use ordinances by establishing regulations to ensure that any site that benefits from a rezoning, variance or redevelopment plan approved by the Borough or the Borough Planning/Zoning Board that results in multi-family residential development of five (5) dwelling units produces affordable housing at a set-aside rate of twenty percent (20%), in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough's affordable housing obligations. This Ordinance will not apply to the Borough's RM, B-A, BR-1, O and B-3 zones, as said zones already have affordable housing set-aside requirements.

**35-38A.2 Affordable Housing Mandatory Set-Aside Requirement**

- a. If the Borough or the Borough's Planning Board 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 Borough or the Borough's Planning 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 Borough's Planning Board, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation.
- c. For any such development for which the Borough's land use ordinances (e.g. zoning or an adopted Redevelopment Plan) already permitted residential development as of the effective date of the Ordinance creating this section was adopted, this requirement shall only apply if the Borough or the Borough's Planning Board permits an increase in approvable and developable gross residential density up to twice the permitted approvable and developable gross residential density as of the effective date the Ordinance creating this section was adopted.
- d. Nothing in this section precludes the Borough or the Borough's Planning 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. For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%).

- f. 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. This requirement does not apply to any sites or specific zones otherwise identified in the Borough's Settlement Agreement with FSHC, which was executed by the Borough on July 3, 2018, or in the Borough's 2019 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 Borough's RM, B-A, BR-1, O and B-3 zones, as said zones already have affordable housing set-aside requirements.
- h. Furthermore, this section shall not apply to developments containing four (4) or less dwelling units.
- i. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
- j. Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.
- k. All inclusionary projects created under this section must comply with the affordable housing requirements in Chapter 35-36 (Affordable Housing Regulations).

**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 Borough of Manasquan, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Manasquan are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 4.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Manasquan for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.

**Section 5.** Upon final adoption, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

**Section 6.** This ordinance shall become effective following its final passage and publication according to law.


**NOTICE**

**PUBLIC NOTICE IS HEREBY GIVEN** that Ordinance No. 2283-19 is being introduced at a meeting of the Mayor and Council of the Borough of Manasquan on the 4<sup>th</sup> day of March 2019, and read for the first time. The said Ordinance is going to be considered for final passage by the Mayor and Council at Borough Hall, 201 East Main Street, Manasquan, NJ 08736 at 7:00 p.m. on the 18<sup>th</sup> day of March 2019. At such time and place, or at any such time or place to which said meeting may be adjourned, all interested persons will be given an opportunity to be heard concerning said ordinance. A copy of this ordinance can be obtained without cost by any member of the general public at the office of the Municipal Clerk in Borough Hall between the hours of 9:00 a.m. and 4:00 p.m. on Monday through Friday, except on legal holidays.

  
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**BARBARA ILARIA, RMC, CMC**  
**Municipal Clerk**

Mark G. Kitrick, Esquire  
Municipal Attorney  
2329 Route 34 South  
Suite 104  
Manasquan, NJ 08736

Passed on First Reading and Introduction: March 4, 2019  
Approved on Second Reading and Final Hearing: March 18, 2019

  
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Edward Donovan  
Mayor