

**COUNTY OF BERGEN
BOROUGH OF PARAMUS
ORDINANCE 2020-34**

ORDINANCE AMENDING PARAMUS CODE §429-121 and 210-5

Section 1. Purpose & Authority. Pursuant to N.J.S.A. 40:48-2, and N.J.S.A. 40:49-2, and pursuant to the settlement agreement dated February 6, 2020 entered into between the Borough of Paramus and Fair Share Housing Center in the declaratory judgment action captioned In the Matter of the Borough of Paramus, County of Bergen, Docket No.: BER-L-6227-15, and in furtherance of the Borough's constitutional obligation to contribute its fair share of a regional need for affordable housing in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015), the Paramus Governing Body hereby amends Chapter 429-121 and Chapter 210-5 of the Paramus Code to change the multi-family residential dwelling unit density within the Highway Commercial Corridor ("HCC") zone, and the Affordable Housing – Inclusionary Zoning Requirements.

Section 2. Paramus Code §429-121(C)(4). Paramus Code §429-121(C)(4) is hereby modified and amended to provide as follows: The maximum density shall be twenty-four (24) dwelling units per acre comprising the development parcel. In all other respects, Paramus Code §429-121 remains unchanged and unmodified.

Section 3. Paramus Code § 210-5(A). Paramus Code § 210-5(A) is hereby modified and amended to provide, in its entirety, as follows:

A. Inclusionary set-aside. To ensure realistic opportunities for the creation of affordable housing, all new multi-family residential development of five (5) units or more within the Borough shall be required to provide and set aside affordable housing units at a rate of fifteen (15%) for rental residential development and twenty percent (20%) for for-sale residential development, and shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more. A fractional obligation to provide for affordable housing shall be met by a payment in lieu of construction as hereafter set forth. By way of illustration, if a project consists of 50 units, the number of affordable housing units required would be (i) 7.5 if a rental development, of which 7 units would need to be constructed on or off-site with a payment made for .5 of a unit or a payment in lieu pursuant to Section 210-5(c)(3); or (ii) 10 units if a for-sale development. Due to the range of permitted uses and the variety and complexity of permitted residential densities within the Borough, the following provisions shall be applied to all residential development required to provide an affordable housing set-aside:

(1) Compensatory Benefits. The following compensatory benefits are provided to facilitate an inclusionary project and the provision of affordable housing:

(a) Density bonus. Except where a density variance is granted, as set forth in paragraph (b) of this section, a 15% residential density bonus shall be permitted for all inclusionary development projects. Where the calculated density bonus results in a fraction, the density bonus shall be rounded up to the next whole unit. For example, on a one-acre site, in a zone that permits 10 units per acre, an inclusionary developer intending to construct on-site affordable units shall be permitted to construct, two (2) additional units ($10 \times 15\% = 1.5$, rounded up to 2) or a total of 12 units. The project will provide one affordable unit ($15\% \times$ the underlying zoning of 10 units per acre = 1.5) and 11 market-rate units.

(b) Density variances. A compensatory benefit will be deemed to have been awarded, and the density bonus referred to in paragraph (a) above will not apply, where the Borough's Zoning Board of Adjustment approves an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5), (known as a density variance).

(c) Relaxation of zoning standards. In all cases, the Borough's approving land use board shall consider the granting of variances and waivers including but not limited to reduced setbacks, reduced coverage, increased floor area, increased building heights and/or additional stories so as to accommodate the increased number of units and to reasonably result in an opportunity to provide affordable housing, except on any property adjoining a One-Family Residential Zone.

(d) Additional incentives. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in a developer's or redeveloper's agreement at the discretion of the Borough.

Section 4. Paramus Code § 210-5(C). Paramus Code § 210-5(C) is hereby modified and amended to provide, in its entirety, as follows:

Developer options for the provision of affordable housing. Subject to the conditions which follow, a developer required to provide affordable

housing has the option to (1) construct affordable units on site; or (2) construct the affordable units elsewhere within the Borough ("off-site"); or (3) make a payment in lieu of constructing the affordable units; or (4) provide a combination of a payment in lieu and on-site or off-site construction, subject to approval of the Borough, not to be unreasonably withheld.

(1) The on-site construction option is subject to the following controls: Developers choosing on-site construction of affordable units shall determine the number of required affordable units by multiplying the permitted on-site units by .15 or .20, as appropriate, and then adding the density bonus.

(2) Off-site construction option is subject to the following controls:

(a) Developers choosing off-site construction of affordable units shall determine the number of required affordable units in the same fashion as in the calculation of an on-site construction obligation.

(b) All sites selected for off-site construction shall meet the site suitability criteria set forth in N.J.A.C. 5:97-3.13.

(3) The payment in lieu option is subject to the following controls:

(a) The required subsidy for the payment in lieu option is \$180,000.00 per unit.

(b) Payments in lieu of constructing affordable units may represent whole or fractional affordable units. A fractional affordable housing requirement shall not be rounded.

(c) Developers choosing the payment in lieu option shall determine the number of required affordable units to be met by a payment in lieu by multiplying the permitted on-site units by .15 or .20, as appropriate and then adding the density bonus. For example, a site zoned for a 100-unit development shall provide funding for 15 affordable units (15% x underlying zoning for 100 units) calculated at $15 \times \$180,000.00 = \$2,700,000.00$, if a rental development. [The site is permitted a 15% density bonus for an additional 15 units for a total project of 115 market-rate units.]

(d) Payments in lieu of constructing affordable units shall be deposited into the Borough's affordable housing trust fund

pursuant to N.J.A.C. 5:97-8.4 and shall be subject to the provisions thereof.

D. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

E. Utilities and community amenities. Affordable units shall utilize the same type of heating source as market units within the affordable development and have access to all community amenities available to market-rate units.

F. Accessibility and adaptable affordable units. Inclusionary zoning ordinances shall require that the first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.

G. Affordable administration. The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

H. Phasing. In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

I. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

J. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:97-6.4.

K. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 5. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this

ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

Section 6. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Paramus Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Paramus Code.

Section 7. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:



ANNEMARIE KRUSZNIS, RMC
Borough Clerk



RICHARD A. LABARBIERA
Mayor

Re-Introduced: December 1, 2020
Adopted: December 15, 2020