

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

ORDINANCE 1561-18

Introduced: June 26, 2018

Adopted: August 14, 2018

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 14th day of August, 2018. A copy of Ordinance 1561-18 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

AN ORDINANCE OF THE BOROUGH OF EMERSON AMENDING AND SUPPLEMENTING CHAPTER 290, ARTICLE IV SECTION 13D "AHO AFFORDABLE HOUSING OVERLAY ZONE" OF THE BOROUGH CODE TO ESTABLISH A TOWNSHIP-WIDE SET-ASIDE ORDINANCE AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, by the Governing Body of the Borough of Emerson, Bergen County, New Jersey, that the Zoning Code of the Borough of Emerson is hereby supplemented to include provisions addressing the Borough'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. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are required when certain types of applications are approved.

WHEREAS, The Emerson Land Use Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan have been endorsed by the governing body. 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.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Emerson that the Borough Code Chapter 290 Zoning, Article IV, Section 13. General regulations, be amended as follows:

Section 1. Chapter 290-13.D(3) – General regulations. AHO Affordable Housing Overlay Zone, is hereby repealed and replaced with the following:

§290-13.D. AHO Affordable Housing Overlay Set-Aside Requirements.

- (1) Purpose. The purpose of this set-aside requirement is to create a realistic opportunity for the construction of low- and moderate- income housing as land becomes available for development in the Borough of Emerson and thereby address the "unmet need" portion of the fair share housing obligation of the Borough of Emerson under the New Jersey Fair Housing Act of 1985, 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 Mount Laurel Doctrine.

- (2) Any property in the Borough of Emerson that is currently zoned for non-residential uses and subsequently receives a zoning change or use variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, which multi-family residential development will yield five (5) or more new dwelling units, shall provide an affordable housing set-aside of fifteen (15%) percent if the affordable units will be for rent and twenty (20%) percent if the affordable units will be for sale. This provision does not affect residential development on sites that are zoned for inclusionary residential development as part of the Borough's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough of Emerson to grant such rezoning, variance or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement. All affordable units created pursuant to this paragraph shall be governed by the provisions of Chapter 290, Article XII Affordable Housing Regulations.

Section 2. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

Section 3. Severability and Repealer.

- A. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- B. All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.

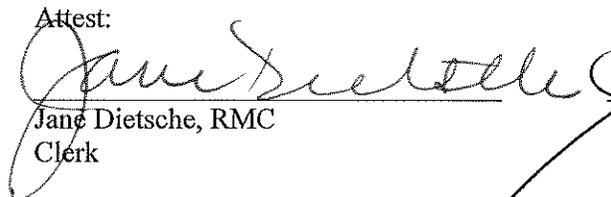
Section 4. Land Use Board Review

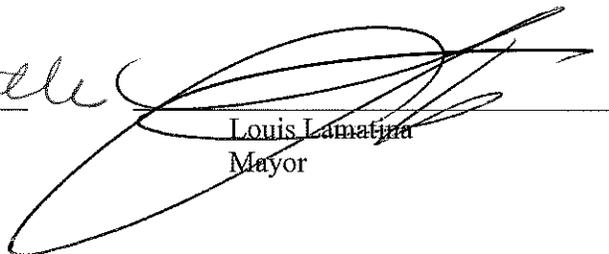
This ordinance shall be subject to review and recommendation by the Borough Land Use Board in accordance with N.J.S.A. 40:55D-26.

Section 5. Effective Date.

This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

Attest:

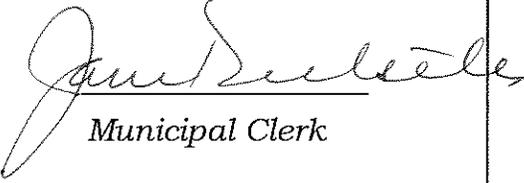

Jane Dietsche, RMC
Clerk


Louis Lamatjina
Mayor

| COUNCIL | M O V E D | S E C O N D E D | A Y E S | N A Y E S | A B S E N T | A B S T A I N |
|----------|-----------------------|--------------------------------------|------------------|-----------------------|----------------------------|---------------------------------|
| DiPaola | | | X | | | |
| Bayley | X | | | | X | |
| Wolf | | | X | | | |
| Knoller | | X | X | | | |
| Falotico | | | X | | | |
| Downing | | | X | | | |

I hereby certify that the above Ordinance was duly adopted by the Borough of Emerson at a meeting held on August 14, 2018.

Attest:


Municipal Clerk