TOWNSHIP OF FAIRFIELD
ORDINANCE #2019-14

ORDINANCE CREATING CHAPTER 45, SECTION 74B, WHICH WILL
BE ENTITLED “AFFORDABLE HOUSING MANDATORY SET-ASIDE”

BE IT ORDAINED by the Township Council of the Township of Fairfield, County of
Essex, State of New Jersey, as follows:

Section 1. Chapter 45, Section 74B of the Code of the Township of Fairfield entitled
“Affordable Housing Mandatory Set-Aside” is hereby created and established to read as follows:

Chapter 45, Section 74B

Section 74 B (1) Purpose and Scope

a. This Ordinance amends the Township land use ordinances by establishing 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 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%) for for-
sale affordable units and at a set-aside rate of fifteen percent (15%) for rental affordable
units, 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 regarding compliance with the Township’s affordable housing
obligations. This Ordinance will not apply to the Township’s MDO, MUO-1, RZO-1,
and IRO Overlay Zones, as said zones already have affordable housing set-aside
requirements.

Section 74 B (2) Affordable Housing Mandatory Set-Aside Requirement

a. If the Township or the Township’s Planning Board or Zoning 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 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.

c. 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 only apply 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. 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. For all inclusionary projects, the appropriate set-aside percentage will be twenty percent (20%) where affordable units will be for sale, or fifteen percent (15%) where affordable units will be for rent.

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 Township's Settlement Agreement with FSHC, which was executed by the Township on November 26, 2018, or in the Township'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 Township's MDO, MUO-1, RZO-1, and IRO Overlay 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 45, Section 74A (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 Township of Fairfield, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Fairfield 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 Essex 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 Fairfield 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; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Essex 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.

JAMES GASPARINI
Mayor

DENISE D. CAFONE
Municipal Clerk

NOTICE

Notice is hereby given that the foregoing Ordinance was submitted in writing at a meeting of the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, held on June 24, 2019, 2019 introduced and read by title and passed first reading and that said Governing Body will further consider the same for second reading and final passage thereof at a meeting that is to be held on July 22, 2019 at 7:00 p.m.; at the Municipal Building, 230 Fairfield Road, Fairfield, New Jersey, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens of interest shall have an opportunity to be heard concerning same.

DENISE D. CAFONE
Municipal Clerk
ORDINANCE #2019-14, ORDINANCE CREATING CHAPTER 45, SECTION 74B, WHICH WILL BE ENTITLED “AFFORDABLE HOUSING MANDATORY SET-ASIDE”

INTRODUCED BY: Councilman LaForgia
SECONDED BY: Councilman Cifelli
PUBLISHED: June 27, 2019

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2ND READING AND PUBLIC HEARING: JULY 22, 2019

INTRODUCED BY: Councilman Cifelli
SECONDED BY: Councilman LaForgia
PUBLISHED: July 25, 2019

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