

**LEGAL NOTICE  
ORDINANCE NO. 31  
2020  
TOWNSHIP OF WAYNE  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND CHAPTER 134  
(LAND DEVELOPMENT) OF THE CODE OF THE TOWNSHIP OF WAYNE**

**WHEREAS**, on December 18, 2019, the Township Council of the Township of Wayne adopted Resolution No. 339 of 2019 Authorizing Settlement of Litigation in the Matter Entitled In the Matter of the Application of the Township of Wayne Bearing Docket No. PAS-L-2396-15 with K. Hovnanian North Jersey Acquisitions, LLC, a New Jersey Limited Liability Company with offices located at 110 Fieldcrest Ave., Edison, NJ 08837 ("Developer") with respect to real property owned by Kuehn, Frederick, Dutchland, Realty identified as Block 3305, Lots 4 and 6 on the Tax Assessment Map of the Township of Wayne, more commonly known as 1701, 1673 and 1621 Hamburg Turnpike respectively (collectively "K. Hovnanian Property"); and

**WHEREAS**, on March 9, 2020, the Township of Wayne ("Township"), the Wayne Planning Board, and K. Hovnanian North Jersey Acquisitions, LLC entered into a Settlement Agreement with respect to the K. Hovnanian Property ("K. Hovnanian Settlement Agreement"); and

**WHEREAS**, pursuant to the terms contained in the K. Hovnanian Settlement Agreement, the Township and the Wayne Planning Board agreed to amend the Zoning Ordinance to provide for the K. Hovnanian Property as part of the Township's Affordable Housing Plan; and

**WHEREAS**, N.J.S.A. 40:55D-62 and 40:55D-65 provide that the governing body may adopt or amend a zoning ordinance related to the nature and extent of the uses of land and structures thereon and a zoning ordinance may restrict buildings and structures according to their type and the nature and extent of their use; and

**WHEREAS**, the Planning Department recommends the following amendments to the Township's Zoning Ordinance in accordance with the Settlement Agreement authorized pursuant to Resolution No. 339 of 2019; and

**WHEREAS**, the Township Council has determined that the recommended changes would be beneficial to the Township; and

**WHEREAS**, Chapter 134 (Land Development) needs to be amended and supplemented to effectuate said changes.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey as follows:

**SECTION 1.** Chapter 134 (Land Development), Article I (General Provisions) of the Code of the Township of Wayne is hereby supplemented to read as follows [additions by **bold**, deletions by ~~strikethrough~~]:

§ 134-27. Zone Districts.

**Mount Laurel Round Three District 2 (MLR3D-2)**

§ 134-27.1. Zoning Map.

B. Zoning Map Amendments

(7) Ordinance No. 31-2020 amends the Zoning Map to create the Mount Laurel Round Three District 1 (MLR3D-1) including sub-districts A and B from the R-30 District; Block 3305, Lots 4 and

6. The zoning designations map dated July 15, 2020 is hereby approved and adopted as the official finding and record of the location and areas of MLR3D-1 Sub-Districts A and B.

**SECTION 2.** Chapter 134 (Land Development), Article III (Zoning Regulations) of the Code of the Township of Wayne is hereby supplemented to create and establish Section 134-54 entitled Mount Laurel Round Three Districts ("MLR3D") [additions by **bold**, deletions by ~~strikethrough~~].

§ 134-54. Mount Laurel Round Three Districts (MLR3D).

§ 134-54.1 Purpose

WHEREAS, the Township of Wayne recognizes that the State of New Jersey has determined that municipalities have an obligation to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township of Wayne has identified properties and locations to assist in meeting its Round Three and Gap Period Obligations and hereby creates and establishes the Mount Laurel Round Three Districts ("MLR3D").

The purpose of the MLR3D is to provide for the realistic opportunity for the development of housing for families with low and moderate incomes as required by the New Jersey State Supreme Court in Southern Burlington County, NAACP v. Township of Mount Laurel, 92 N.J. 158 (1980), the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., and the Wayne Township Fair Share Housing Plan as approved by the Superior Court of the State of New Jersey in the case entitled In the Matter of the Application of the Township of Wayne, Docket No. PAS-L-2396-15 (3<sup>rd</sup> Round).

§ 134-54.2 Applicability.

These regulations shall apply only to those properties designated within the MLR3D. The below listed permitted uses and general development standards shall apply to all such designated properties. All applicable Township ordinances, including Chapter 134 (except as explicitly exempted), shall be enforced with respect to these developments. Notwithstanding the foregoing, the Planning Board may relax the provisions of Article V of this Chapter to the extent required to allow for conformance with the density of development specified in the Wayne Township Fair Share Housing Plan as it relates to the subject inclusionary site.

§ 134-54.3 Affordable Housing Regulations.

All inclusionary housing developments built in accordance with this section shall contain a mandatory set-aside of affordable housing as an inclusionary development permitted under §134-54 Mount Laurel Round Three Districts of at least 15% of the total for-rent residential units and at least 20% of the total for-sale residential units developed pursuant to the Settlement Agreements for the properties as noted herein, must be affordable to low- (including very-low) and moderate-income households. In the event that the required 15% or 20% of the total number of residential units does not result in a full integer, the developer shall round up to the nearest full integer. The percentage of units required to be set-aside will be specific within each MLR3D District based on whether the development is proposed to be for-sale or for-rent.

The inclusionary affordable units shall be developed and administered in accordance with the Fair Housing Act, N.J.S.A. 527D-301 et seq., COAH's rules and UHAC at N.J.A.C. 5:80-26.1, and as required under Chapter 213, Affordable Housing Regulations of the Code of the Township of Wayne. Such requirements include but are not limited to the following:

Income Distribution:

- 50% of the total number of affordable units (rounded up) provided as affordable to low income households.

- 13% of the total number of affordable units (rounded up) provided as affordable to very-low income households. This percentage may be included in the calculation of the 50% low income set-aside.
- The balance of units shall be reserved for moderate income households.
- Each income level (very-low income, low income, moderate income) shall be proportionally allocated across each unit size (number of bedrooms).

Bedroom Distribution of Units Not Age-Restricted:

- No more than 20% of all affordable units shall be composed of efficiency and one-bedroom units.
- At least 30% of all low- and moderate-income affordable units shall be composed of two bedroom units.
- At least 20% of all low- and moderate-income affordable units shall be composed of three bedroom units.
- Phasing of Affordable Units: Conformance with N.J.A.C. 5:93-5.6(d).
- Affirmative marketing requirements: N.J.A.C. 5:80-26.14 to 26.17.

Affordable housing fees described in §213-66 shall not apply to inclusionary residential developments.

§ 134-54.4 Continuing Compliance with Court Order.

All approvals by the Township Council, municipal agency or any municipal entity for any development within the Districts shall contain a condition that full compliance with the applicable Court Order is a nonseverable, continuing condition of said approval. Submission of the Court Order applicable to each district shall be a prerequisite to a determination of completeness of any development application. This provision shall be nonseverable from this Chapter.

§ 134-54.5 Mount Laurel Round Three District-1 (MLR3D-1).

A. Mount Laurel Round Three District-1 Sub-District A.

1) Uses

i. Permitted Uses

In addition to those uses listed in §134-29 and §134-30, no lot, plat, parcel or tract of land shall be used and no building or other structure shall be built, altered or erected to be used for any purpose other than that of:

1. Dwellings, Attached and Stacked

ii. Accessory Uses

1. Uses and buildings customarily incidental to the above permitted uses and located on the same lot as the principal use to which they are accessory.

2. Playground

3. Surface parking

4. Signs (subject to limitations appearing in the Township Code and to be determined upon site plan review)

5. Fences and Walls

6. Temporary sales and construction trailers
  7. Sales signs and banners pursuant to §134-68.I(2), except that the main residential sales sign for the overall development shall not exceed a maximum of 40 square feet.
- 2) Minimum lot area: 20 acres, inclusive of any new streets, public or private
  - 3) Permitted Development Yield
    - i. Maximum number of units: 105 units
    - ii. Maximum number of units per building:
      1. Townhome building: 6
      2. Attached dwelling: 18
  - 4) Minimum Affordable Housing set-aside: 20 percent
  - 5) Residential Bulk Requirements
    - i. Minimum yard setbacks:
      1. Building setback (exclusive of an open porch, steps, overhanging eaves, cornices, chimneys, bay windows but including garage) to inside edge of sidewalk: 20 feet
      2. From building projections, including exceptions noted above, to inside edge of sidewalk: 15 feet
      3. To any lot line: 30 feet
      4. To Paterson Hamburg Turnpike: 100 feet
    - ii. Building separation requirements:
      1. Minimum setback from the side of any building: 25 feet
      2. Minimum setback from the rear of any building: 40 feet
    - iii. Maximum building height:  
4 stories/49 feet
  - 6) Site Development Requirements
    - i. Maximum impervious coverage: 30%
    - ii. Common Space: One tot lot play area, inclusive of seating and play structure(s) is required
    - iii. Buffers: There shall be a minimum of 30-foot vegetative buffer between the southern boundary of the MLR3D-1 zone and the adjacent parcels that have frontage along Surrey Drive, which shall provide for an opaque visual shield in accordance with § 134-86. No structures, streets, recreation areas such as playgrounds, or parking areas are permitted in the buffer area. The buffer area may be included in the required building setback area to the exterior tract property lines referenced above. The buffer area may include fencing to a height permitted by ordinance.

iv. Signage: One double-sided monument side with a height not to exceed 12 feet at the vehicular entry from Paterson Hamburg Turnpike shall be permitted in accordance with §134-68.2(G).

v. Improvements:

1. Sidewalks shall be provided along both sides of any new road, with a width of 4 feet.

2. Ornamental street lighting is required.

3. Street trees are required along the length of any new road, with spacing to be approved by the municipal land use board having jurisdiction.

7) Exemption from limitations on development

Development in the MLR3D-1 zone is exempt from the standards set forth in the following sections to the extent necessary to implement the Settlement Agreement and to reduce cost-generative measures:

i. §134-91.2 (Calculation of number of building lots for subdivision and the number of units for site plans) which adjusts the number of units permitted in a site plan;

ii. §134-91.3(A) and (B) (Slope and Soil Disturbance regulations which adjust minimum lot areas and maximum allowable disturbance areas);

iii. §134-96.4 (General Requirements to Regulations for Slope and Soil Disturbance which adjust maximum allowable site disturbance);

iv. § 134-85.3(B) (Tree Preservation) shall not be applicable within the area of disturbance;

v. Development in the MLR3D-1 is subject to the requirements of §134-91.4 (Tree Removal) except that trees over 18" in caliper within the area of disturbance may be removed, an estimate of trees over 8" in caliper shall be required but a precise count shall not be required and no fee in lieu shall be assessed.

B. Mount Laurel Round Three District-1 Sub-District B.

1) Uses.

i. All uses permitted in §134-43.1 (Uses permitted in Business (B) District)

ii. Conditional uses.

1. All uses permitted conditionally in §134-43.4 (Conditional Uses in Business (B) District)

2. One single family residential dwelling unit. Unit shall be permitted subject to the following conditions:

- a. The single family dwelling is in existence at the time of the subdivision of the property in accordance with In the Matter of the Application of the Township of Wayne, Docket No. PAS-L-2396-15.
- b. The footprint of the building shall not exceed 1,900 square feet.

iii. Prohibited uses.

1. All uses prohibited in §134-43.2 (Uses prohibited in Business (B) District).

iv. Area and bulk requirements.

- i. Bulk standards from §134-43.3 (Area and Bulk Requirements in Business (B) District) shall apply.

**SECTION 3.** As required by N.J.S.A. 40:55D-64, prior to the hearing on adoption of this ordinance, on behalf of the Township Council, the Township Clerk shall refer this ordinance to the Wayne Planning Board for its review and comment pursuant to N.J.S.A. 40:55D-26. The Township Clerk shall also send a copy of this ordinance to the clerk of an adjoining municipality involving property situated within 200 feet of such adjoining municipality in accordance with N.J.S.A. 40:55D-15. In addition, the Township Clerk shall give notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions pursuant to N.J.S.A. 40:55D-62.1.

Upon adoption, the Township Clerk shall send a copy of this ordinance to the Passaic County Planning Board pursuant to N.J.S.A. 40:55D-16.

**SECTION 4.** All other provisions of Chapter 134 of the Code of the Township of Wayne shall remain unchanged.

**SECTION 5: Severability.** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION 6: Repeal of Inconsistent Provisions.** All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 7: Codification.** This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**SECTION 8.** This ordinance shall take effect twenty days after final passage, adoption, and publication in the manner prescribed by law.

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WAYNE AT A REGULAR MEETING HELD ON AUGUST 19, 2020.

ATTEST:

  
\_\_\_\_\_  
PAUL V. MARGIOTTA  
TOWNSHIP CLERK

