



**Township of Delaware
Ordinance No. 2026-04**

AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 230 "LAND USE" OF THE CODE OF THE TOWNSHIP OF DELAWARE, ARTICLE III "ZONE REGULATIONS", TO INCLUDE NEW SECTION 230-12 Z SETTING FORTH MANDATORY SETASIDE REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT IN THE TOWNSHIP OF DELAWARE

WHEREAS, the Township of Delaware has prepared a fourth round affordable housing compliance plan that relies on a durational adjustment of its affordable housing obligation based on a lack of sewer capacity; and

WHEREAS, in order to capture small-scale opportunities to create new affordable housing units, the Township wishes to adopt a mandatory set-aside ordinance applicable to new residential or mixed-use projects that were not anticipated at the time the fourth round plan was adopted; and

WHEREAS, the mandatory set-aside ordinance does not create any entitlement for the granting of or lessen the burden of proof for applicants requesting variances, rezonings or redevelopment plans; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Delaware, in the County of Hunterdon and State of New Jersey, that Chapter 230, Article III of the Code of the Township of Delaware, is hereby amended as follows, to include new Section 230-12.Z:

§ 230-12

Z. Mandatory Affordable Housing Set-aside

- (1) All residential development, including the residential portion of a mixed-use project, which consists of five (5) or more new residential units shall be required to setaside a minimum of 20% of the residential units for very low, low, and moderate income households, as set forth below.
- (2) This requirement 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. This requirement shall not apply to sites or zoning districts identified in the Fair Share Plan where standards for the set-aside of affordable housing units have already been established.
- (3) All affordable housing units shall comply with the Township's Affordable Housing Ordinance, Chapter 230, Article VIII, §230-69, as well as the NJ Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26.1 et seq.). This shall include but is not limited to:
 - (a) The requirement that at least thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty percent (30%) or less of median income;
 - (b) Appropriate distribution of 1-, 2-, and 3-bedroom units;
 - (c) Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units, and
 - (d) Minimum unit sizes by square footage for affordable housing units.
 - (e) The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Township, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.
- (4) The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that affordable units shall be generally distributed within each building with market-rate units. The residents of the affordable units shall have full and equal access to all amenities, common areas, and recreation areas and facilities as the residents of the market-rate units. The affordable units shall

be the same type of housing unit as the market rate units, meaning that a market rate building available to families shall not be developed to provide age-restricted housing units.

- (5) Construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
- (6) Subdivision and/or site plan approval shall not be granted by the reviewing board unless the developer complies with the requirements to provide very low-, low-, and moderate-income housing pursuant to the provisions of this section. A property shall not be permitted to be subdivided so as to avoid meeting this requirement. The board may impose any reasonable conditions to ensure such compliance.
- (7) 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.
- (8) In the event application of the required 20% setaside does not result in a full integer, the developer shall round the required set-aside upward and construct a whole affordable unit when 0.5 unit or more is the resulting fraction of a unit.
- (9) In the event application of the required set-aside percentage to the total number of residential units proposed does not result in a full integer, the developer may round the required set-aside downward and make a payment-in-lieu of providing the affordable unit when 0.49 unit or less is the resulting fraction of a unit. The resulting fractional unit shall be multiplied by \$340,000 to determine the required payment-in-lieu. All payments-in-lieu of providing fractional units meeting the requirements of this section shall be deposited into the Township of Delaware Affordable Housing Trust Fund.
- (10) Any developer subject to the requirements of this section and who provides an affordable housing setaside shall not be subject to payment of residential development fees.

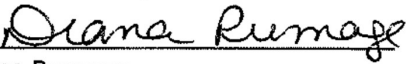
Severability

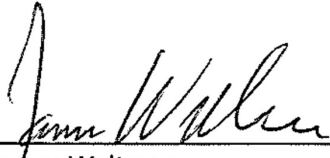
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Effective Date

This ordinance shall take effect immediately upon passage and publication according to law.

ATTEST:


Diana Rumage
Township Clerk


James Waltman
Mayor

Ordinance 2026-04 Introduction -- roll call vote						
Township Committee	Motion	Second	Yes	No	Abstain	Absent
Chad Bower			X			
Luke Hanson		X	X			
Charles Herman	X		X			
Susan Lockwood			X			
James Waltman			X			

Introduction: February 9, 2026
Published: February 13, 2026

Ordinance 2026-04 Adoption – roll call vote						
Township Committee	Motion	Second	Yes	No	Abstain	Absent
Chad Bower		X	X			
Luke Hanson			X			
Charles Herman	X		X			
Susan Lockwood			X			
James Waltman			X			

Public Hearing/Adoption: March 9, 2026
Published: March 11, 2026

I hereby certify that the attached ordinance is a true and correct copy of an ordinance entitled **AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 230 “LAND USE” OF THE CODE OF THE TOWNSHIP OF DELAWARE, ARTICLE III “ZONE REGULATIONS”, TO INCLUDE NEW SECTION 230-12 Z SETTING FORTH MANDATORY SETASIDE REQUIREMENTS FOR RESIDENTIAL DEVELOPMENT IN THE TOWNSHIP OF DELAWARE** which was introduced at the meeting of the Township of Delaware Township Committee on February 9, 2026 and adopted at the meeting of the Township of Delaware Township Committee on March 9, 2026.

Diana Ramage
Diana Ramage
Township Clerk