

BOROUGH OF MIDDLESEX

ORDINANCE NO. 2163-26

**AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 420 “ZONING” OF THE
CODE OF THE BOROUGH OF MIDDLESEX, TO INCLUDE NEW ARTICLE XII
SETTING FORTH MANDATORY SETASIDE REQUIREMENTS FOR RESIDENTIAL
DEVELOPMENT IN THE BOROUGH OF MIDDLESEX**

WHEREAS, in order to capture small-scale opportunities to create new affordable housing units, the Borough 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 Mayor and Council of the Borough of Middlesex, in the County of Middlesex and State of New Jersey, that Chapter 420 of the Code of the Borough of Middlesex, is hereby amended as follows, to include new Section 420-69.

§ 420-69 Mandatory Affordable Housing Set-aside

- A. Except as otherwise regulated in this chapter, any development application proposing five (5) or more new dwelling units shall be required to set aside twenty percent (20%) of said lots or units for affordable housing. All existing and proposed redevelopment plans shall be subject to these requirements and shall not rely upon language within the redevelopment plan that allows the redevelopment plan provisions to supersede or replace existing Zoning regulations associated with affordable housing requirements.
- B. This requirement shall apply for all new multi-family residential developments of five (5) or more units that become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted, or new redevelopment plan.
- C. 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.
- D. For residential or mixed-use projects in which the affordable units are to be offered for rent or sale, the set-aside percentage shall be twenty (20) percent.

- E. The developer shall provide that half of the affordable units constructed be reserved for low-income households and that the remaining half be reserved for moderate-income households. At least 13 percent of all restricted units shall be very low-income units (affordable to a household earning 30 percent or less of median income). The very-low-income units shall be counted as part of the required number of low-income units within the development.
- F. 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.
- G. 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.
- H. 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.
- I. In the event application of the required set-aside percentage (20%) to the total number of residential units proposed 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.

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:

BOROUGH OF MIDDLESEX

Kelsey Meixner, Municipal Clerk

John Mikolajczyk, Mayor

INTRODUCED: February 10, 2026

DATE OF PUBLICATION:
OF INTRODUCTION February 24, 2026

ADOPTED: March 10, 2026

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OF ADOPTION: March 11, 2026