

ORDINANCE 20-12

AN ORDINANCE DELETING ARTICLES XI, XIII AND XXIV, AMENDING SECTIONS 28-7.1 AND 28-7.2 OF ARTICLE VII AND AMENDING SECTIONS 28-10.1 AND 10.2 OF ARTICLE X, OF CHAPTER 28, ZONING, OF THE ORDINANCES OF THE BOROUGH OF LINCOLN PARK

WHEREAS, New Jersey courts have held that municipalities in the State of New Jersey have a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region’s low and moderate income housing needs; and

WHEREAS, numerous affordable housing units have been created in the Borough of Lincoln Park (“Borough”) in satisfaction of the Borough’s affordable housing obligations and in accordance with a Confirmation of Satisfaction of Conditions and Final Judgment of Compliance and Repose granted to the Borough by the Superior Court of New Jersey on February 26, 2019 (“Judgment of Compliance and Repose”); and

WHEREAS, in order to obtain the Judgment of Compliance and Repose, the Borough adopted Article XIX, Affordable Housing, of Chapter 17, Land Development Review, of the Ordinances of the Borough of Lincoln Park, which governs existing affordable housing units in the Borough, as well as any new affordable housing units that will be created in the Borough (“Affordable Housing Ordinance”); and

WHEREAS, in order to obtain the Judgment of Compliance and Repose, the Borough also adopted Article XX, Development Fees, of Chapter 17, Land Development Review, of the Ordinances of the Borough of Lincoln Park, which governs the collection of both residential and non-residential developments fees in the Borough (“Development Fee Ordinance”); and

WHEREAS, the Borough desires to delete Article XI, Affordability Control, and Article XXIV, Development Fee In Lieu of Construction, of Chapter 28, Zoning, as those Articles are

inconsistent with the Affordable Housing Ordinance; and

WHEREAS, the Borough desires to delete Article XIII, Affordable Housing Development Fees, of Chapter 28, Zoning, as that Article is inconsistent with the Development Fee Ordinance; and

WHEREAS, the Borough desires to amend Sections 28-7.1 and 28-7.2 of Article VII, Townhouse/Adult Community Housing Set-Aside Zone, and Sections 28-10.1 and 28-10.2 of Article X, Adult Community Housing Subsidized and Non-Subsidized Overlay Zone, of Chapter 28, Zoning, to be consistent with the provisions regulating age-restricted units set forth in the Affordable Housing Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

SECTION ONE. Article XI, Affordability Control, Article XIII, Affordable Housing Development Fees, and Article XXIV, Development Fee In Lieu of Construction, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park are hereby deleted in their entirety.

SECTION TWO. Sections 28-7.1 and 28-7.2 of Article VII, Townhouse/Adult Community Housing Set-Aside Zone, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park are hereby deleted in their entirety and are replaced by the following:

§28-7.1. Purpose.

The purpose of the TH/ACHS Zone is to provide for and encourage the construction of very low-, low- and moderate-income age-restricted housing within the immediate proximity of the central business district by permitting market-rate townhouse development conditioned upon agreement to set aside at least 20% of the units built for such age-restricted, affordable housing purposes.

§28-7.2. Permitted uses.

A. Within this zone 20% of the dwelling units constructed shall be set aside for lease or purchase by age-restricted very low-, low- and moderate-income households as those terms are defined in Article XIX, of Chapter 17, Land Development Review.

(1) Subject to the forgoing, the following uses are permitted:

(a) Townhouse as defined in §28-1.2, except that individual yards shall not be required and flats may be included in the same building with townhouse units.

(b) Flats.

(c) Single-family and two-family dwellings in accordance with Article III, Schedule of General Requirements, and Article V of this chapter for the R-15 Zone.

(2) All units in this TH/ACHS Zone shall be occupied by at least one person fifty-five (55) years of age or older and shall not be occupied by persons under nineteen (19) years of age with an exception provided solely in the circumstance in which a resident who is fifty-five (55) years of age or older, because of a disability, requires that a caregiver or attendant who is under nineteen (19) years of age reside in the unit

B. Accessory uses are permitted as follows:

(1) Common open space including community buildings and recreational facilities.

(2) Signs, subject to the following:

(a) Entrance signs, provided that the total surface area shall not exceed 32 square feet in surface area on any single side. No more than one sign shall be permitted per entrance.

(b) Directional signs to identify parking areas, rental offices, recreation areas, entrances and exits, which signs shall not exceed two square feet in surface area.

(c) The design, location and landscaping of signs shall be in accordance with the specifications and conditions determined by Article XXI, Signs, of this chapter.

SECTION THREE. Sections 28-10.1 and 28-10.2 of Article X, Adult Community Housing Subsidized and Non-Subsidized Overlay Zone, of Chapter 28, Zoning, of the Ordinances

of the Borough of Lincoln Park are hereby deleted in their entirety and are replaced by the following:

§28-10.1. Permitted Uses.

A. Within the ACH Overlay Zone, no premises, lot, building or structure shall be used and no building or structure shall be erected or altered to be used in whole or in part for any other than the following purposes:

(1) All underlying zone uses. Bulk regulations for the underlying zones apply except when the land is developed in accordance with the provisions of the ACH Zone.

(2) Subsidized very low-, low- and moderate-income senior citizen housing developed by nonprofit or limited profit qualified sponsors financed and otherwise subsidized by the United States Department of Housing and Urban Development and/or the New Jersey Housing and Mortgage Finance Agency, subject, nevertheless, to the further provisions of this chapter.

(3) Non-subsidized fair market development in accordance with standards applicable to the TH-S Zone, Article VI, except that:

(a) All units in this ACH Overlay Zone shall be occupied by at least one person fifty-five (55) years of age or older and shall not be occupied by persons under nineteen (19) years of age with an exception provided solely in the circumstance in which a resident who is fifty-five (55) years of age or older, because of a disability, requires that a caregiver or attendant who is under nineteen (19) years of age reside in the unit.

(b) Density shall not exceed 10 dwelling units per acre.

(c) All special conditions in §§28-10.4B and 28-10.6A, B, F and G applicable to subsidized senior citizen development shall be applied to fair market adult community housing.

(d) One and 1/2 off-street parking spaces shall be required for each dwelling unit.

(e) The developer shall set aside 20% of the total units for very low-, low- and moderate-income senior citizen households as those terms are defined in Article XIX, of Chapter 17, Land Development Review.

B. Notwithstanding the provisions of Subsection A of this section, if a development covers two or more set-aside housing types, the 20% set-aside requirement for very low-, low- and moderate-income households may be furnished all in one housing type or

distributed among the housing types in proportion other than 20%, provided that 20% of the total units are set-aside as age-restricted, affordable housing units.

§28-10.2. General requirements for subsidized ACH development.

A. The residents of a subsidized ACH development established pursuant to this section shall be limited to qualifying very low-, low- and moderate-income elderly and handicapped persons as defined and otherwise in accordance with the standards and requirements established by the United States Department of Housing and Urban Development and/or the New Jersey Housing and Mortgage Finance Agency. Units in the ACH development Zone shall be occupied by at least one person fifty-five (55) years of age or older and shall not be occupied by persons under nineteen (19) years of age with an exception provided solely in the circumstance in which a resident who is fifty-five (55) years of age or older, because of a disability, requires that a caregiver or attendant who is under nineteen (19) years of age reside in the unit

B. Residency priority (federal- or state-funded projects). Subject to requirements and standards established by the funding agency, preference shall be given in the following order:

- (1) First priority: Lincoln Park senior citizens.
- (2) Second priority: senior citizens who are parents of Lincoln Park residents.
- (3) Third priority: senior citizens who have resided within Lincoln Park within the last three years.
- (4) Fourth priority: senior citizens residing within Morris County.
- (5) Fifth priority: senior citizens residing in contiguous counties to Morris County.
- (6) Sixth priority: other senior citizens.

C. Lot area and density.

- (1) The minimum lot size shall be five acres.
- (2) No subsidized housing project shall be more than 150 units.
- (3) No project shall exceed a density of 15 units per gross acre.
- (4) Dimensional requirements shall be subject to waiver by the Planning Board when funding agency standards differ from the appropriate section of this chapter.

(5) Off-street parking spaces shall be provided at a rate of one per two dwelling units, plus guest parking as permitted by the funding agency.

(6) Where funding agency standards are made part of any application, the municipal agency shall have the right to reject those standards where it is deemed detrimental to the zone plan.

D. Building coverage. The total ground area of all buildings, including accessory buildings, shall not exceed 18% of the lot area. Maximum impervious surface shall not exceed 50% of the lot area.

E. In all subsidized ACH developments, the architectural design for all buildings and recreation facilities must be consistent with the ultimate purpose of achieving independent, self-reliant and pleasant living arrangements for senior citizens and should take into account the desires and needs of older persons for privacy, participation in social and community activities and access to community activity areas. At the same time, provisions should be made to accommodate the limitations that sometimes accompany advancing years so that independent living can be sustained.

SECTION FOUR. All Ordinances of the Borough of Lincoln Park which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION FIVE. If any section, subsection clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of the Ordinance.

SECTION SIX. This Ordinance shall take effect as provided by law.

ATTEST:

Cynthia L. Sloane, RMC, CMR, Borough Clerk

Ann Thompson, Council President

INTRODUCED:
PUBLISHED IN SUBURBAN TRENDS:

PUBLIC HEARING AND ADOPTION:
PUBLISHED IN SUBURBAN TRENDS:

**NOTICE OF INTRODUCTION AND STATEMENT OF PURPOSE AND SUMMARY
PURSUANT TO N.J.S.A. 40:49-2 AND N.J.S.A. 40:49-2.1
BOROUGH OF LINCOLN PARK, COUNTY OF MORRIS**

NOTICE IS HEREBY GIVEN that an Ordinance entitled "An Ordinance Deleting Articles XI, XIII, and XXIV, Amending Sections 28-7.1 and 28-7.2 of Article VII and Amending Sections 28-10.1 and 10.2 of Article X, of Chapter 28, Zoning, of the Ordinances of the Borough of Lincoln Park" was submitted in writing at a regular meeting of the Mayor and Council of the Borough of Lincoln Park, County of Morris, State of New Jersey, held on _____, 2020 and was introduced, read by title and passed on first reading. A Statement of Purpose of the Ordinance is contained below. The Governing Body of the Borough of Lincoln Park will further consider the Ordinance for second reading and final passage thereof at their regular meeting to be held on _____, 2020 at 7:30 p.m. prevailing time, at the Municipal Building, 34 Chapel Hill Road, Lincoln Park, New Jersey, at which time and place a public hearing will be heard thereon by the Governing Body and all parties in interest and citizens shall have an opportunity to be heard concerning said Ordinance.

Statement of Purpose of Ordinance

The purpose of the above Ordinance to (1) delete Article XI, Affordability Control, and Article XXIV, Development Fee In Lieu of Construction, of Chapter 28, Zoning, as those Articles are inconsistent with Article XIX, Affordable Housing, of Chapter 17, Land Development Review, of the Ordinances of the Borough of Lincoln Park; (2) delete Article XIII, Affordable Housing Development Fees, of Chapter 28, Zoning, as that Article is inconsistent with Article XX, Development Fees, of Chapter 17, Land Development Review, of the Ordinances of the Borough of Lincoln Park; and (3) amend Sections 28-7.1 and 28-7.2 of Article VII,

Townhouse/Adult Community Housing Set-Aside Zone, and Sections 28-10.1 and 28-10.2 of Article X, Adult Community Housing Subsidized and Non-Subsidized Overlay Zone, of Chapter 28, Zoning, to be consistent with the provisions regulating age-restricted units set forth in Article XIX, Affordable Housing, of Chapter 17, Land Development Review, of the Ordinances of the Borough of Lincoln Park.

A copy of the full Ordinance is available to any member of the general public, without cost, at the Borough of Lincoln Park, 34 Chapel Hill Road, Lincoln Park, New Jersey, at the Office of the Borough Clerk, between the hours of 8:00 a.m. and 4:00 p.m.