

**BOROUGH OF WALLINGTON
BERGEN COUNTY, NEW JERSEY
ORDINANCE 2020-007**

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 365, ZONING TO CREATE AND ESTABLISH A NEW ARTICLE ENTITLED "AFFORDABLE HOUSING ZONES."

WHEREAS, in compliance with the New Jersey Supreme Court's decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), July of 2015, the Borough filed an action with the Superior Court of New Jersey ("Court"), entitled In the Matter of the Application of the Borough of Wallington for a Judgment of Compliance and Repose, Docket No. BER-L-6285-15 seeking a Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan (hereinafter "Affordable Housing Plan"), in addition to related reliefs (the "Compliance Action") and simultaneously filed a motion for temporary immunity, which was subsequently granted by the Court and is still in full force and effect; and

WHEREAS, by way of negotiations with the Fair Share Housing Center and intervenors in the DJ Action the Borough has arrived at a settlement with the Fair Share Housing Center of the Borough's obligation which was approved by the Superior Court after a fairness hearing held on November 20, 2019 and in an order entered by the Court and filed on January 6, 2020; and

, pursuant to the approved settlement agreement, the Borough's Affordable Housing Plan includes certain properties for inclusionary zoning; and

WHEREAS, it is necessary to amend the Borough's Zoning Ordinance to implement the Affordable Housing Plan;

IT ORDAINED by the Governing Body of the Borough of Wallington, Bergen County, New Jersey that it does hereby amend, and supplement Chapter 365, entitled Zoning of the Borough Code as follows:

SECTION 1. Chapter 365, Article II Zoning Districts; Map; Boundaries, Section 365-8, Districts Enumerated is hereby supplemented to add the following zone districts:

AR-1	Affordable Residential – 1
AR-2	Affordable Residential – 2

SECTION 2. Chapter 365, Article II Zoning Districts; Map; Boundaries, Section 365-9, Zoning Map is hereby amended to rezone 35 Spring Street; Block 70.05, Lot 8.01 from One family residential, R-1 to Affordable Residential-1, AR-1.

SECTION 3. Chapter 365, Article II Zoning Districts; Map; Boundaries, Section 365-9, Zoning Map is hereby amended to rezone 380 Mount Pleasant Avenue; Block 70.01, Lot 78 from LI, Light Industrial and I, Industrial to Affordable Residential-2, AR-2.

SECTION 4. Chapter 365, Articles VII is hereby repealed in its entirety and replaced with new Article VII entitled Affordable Housing Zones as follows:

Article VII Affordable Residential (AR) Zone Requirements

§ 365-63 Purpose

The purpose of this Chapter is to implement and incorporate the Borough's Housing Element and Fair Share Plan addressing the Borough of Wallington's constitutional obligation to provide affordable housing opportunities under the New Jersey Supreme Court's Mount Laurel decisions. Any development within any affordable housing zone, as identified in this Article, shall comply with the applicable regulations specified in this Article as well as compliance with the applicable regulations specified under Chapter 153, Affordable Housing, and as required by the Borough's settlement agreements ("Settlement Agreements") reached In the Matter of the Application of the Borough of Wallington for a Judgment of Compliance and Repose, Docket No. BER-L-6285-15. Said Settlement Agreements include a settlement agreement between the Borough and Wallington Homes, LLC (owner of property designated on the Boroughs Tax Maps as Block 79.05, Lot 8.01 (the "Wallington Homes Settlement Agreement").

§ 365-64 Developer's Agreement Required

Development within an affordable housing zone, as identified in this Article, shall require a developer's agreement pursuant to Chapter 330, Article VIII as a condition of site plan approval granted by the appropriate Borough land use board. The required developer's agreement may include but not be limited to conditions of site plan approval, infrastructure and traffic improvements, and in the AR-2 District easements providing safe vehicular and pedestrian access from the Borough of Wallington to any structures relating to the use of the New Jersey Transit Westmont Train Station, as may be permitted herein. In addition, the developer's agreement shall outline the terms and conditions for compliance with all required affordable housing regulations pursuant to the Chapter 153 (Affordable Housing) of the Borough Code, as required by the Borough's Settlement Agreements reached In the Matter of the Application of the Borough of Wallington for a Judgment of Compliance and Repose, Docket No. BER-L-6285-15, and for compliance with Borough's Ordinances and the Municipal Land Use Law.

§ 365-65 Affordable Housing - 1 District (AR-1)

A. Permitted Uses

- (1) Permitted principal use. Market rate and affordable residential housing within a multi-family building.
- (2) Permitted Maximum Number of Housing Units. A maximum total of forty-two (42) housing units for rent shall be permitted, with an on-site affordable housing set-aside of no less than eight (8) units inclusive of the total number of units.

- (3) Permitted accessory uses.
 - (a) Off-street parking facilities. Parking shall be permitted in the front, side and rear yard.
 - (b) Other uses that are customarily incidental and subordinate to a permitted principal use.
 - (c) Common facilities and amenities serving the residents of the multi-family development including common walkways, sitting areas and gardens, and other similar uses.
 - (d) Fences and walls no greater than eight (8) feet above ground level within a side or rear yard, and no greater than four (4) feet within a front yard.
 - (e) Bike racks.
 - (f) Solid waste and recycling area, setback at least five (5) ft. from any rear or side yard. No setback from the parking area is required. The area shall be screened from view from a public right-of-way by either block and/or chain link fence.
 - (g) Site lighting in accordance with the standards in subsection § 365-65 E (3) below.

B. Bulk, area and size requirements

(1) Minimum lot size (acres)	1
(2) Minimum lot frontage (feet)	130
(3) Minimum lot depth (feet)	300
(4) Minimum building front yard setback (feet)	40
(5) Minimum building side yard setback (feet)	12
(6) Minimum building rear yard setback (feet)	40
(7) Maximum building height (feet)	33.5
(8) Maximum building coverage (percentage)	30
(9) Maximum lot coverage (percentage)	85
(10) Minimum parking setback from side lot line	10-feet to adjacent residential uses and 5-feet to adjacent non-residential or park uses
(11) Minimum parking stall setback from rear lot line (feet)	5

C. Site access, off-street parking, and loading requirements.

- (1) A site access driveway shall be provided from Spring Street with a minimum width of 24 ft. and an access driveway to Lot 80, Block 70.01 shall be permitted.
- (2) Number and dimensions of parking spaces shall comply with RSIS. No Loading space is required.
- (3) Parking shall be permitted in the front, side and rear yard. No parking setback from a principal or accessory structure is required.
- (4) There shall be no charge for parking designated for affordable housing units within the development.

D. Identification Sign.

One (1) wall mounted, non-illuminated address sign is permitted on each face of the building with a maximum area of five (5) square feet per sign, as well as a ground mounted monument sign, at any site driveway, setback from the property line by 10 feet and with a maximum sign area of 32 square feet and maximum height of 6 feet (including base), which may be internally or externally illuminated.

E. Design Standards.

- (1) Except as set forth herein, compliance with Article VI Site Plan Details and Article VII Design Standards for Site Plan Approval of Chapter 330 of the Borough of Wallington Code shall be required. Where any provision of Articles VI and VII is in conflict with any provision of this section, the design standards as enumerated below shall control.
- (2) The multi-family building shall be substantially consistent with the rendering attached to the Wallington Homes Settlement Agreement as Exhibit C, or as may be modified as permitted by the Settlement Agreement. If the rendering conflicts with design standards or regulations within the zoning ordinance, the rendering shall control.
- (3) Buffers and Landscaping. Landscaping and buffers shall be provided in accordance with the Concept Plan attached as Exhibit A to the Wallington Homes Settlement Agreement and per this section.
 - (a) A minimum buffer of 10 feet shall be maintained adjacent to properties fronting on Spring Court, measured from property line to the edge of pavement in a parking area. Buffer areas may overlap required setbacks.
 - (b) Trees shall be installed at a minimum caliper of 2.5 inches (deciduous) and no less than 6 feet in height (deciduous and evergreen).

- (c) Shrubs shall be planted at a minimum size of 18 to 24 inches.
- (d) Existing vegetation within the required buffer shall be preserved, as determined appropriate. It shall be supplemented where necessary to provide the required 10-foot planted buffer.
- (e) Landscaping within sight triangles shall not exceed a mature height of 30 inches. Existing trees located within sight triangles shall be pruned up to an 8-foot branching height above grade. Proposed trees shall be planted outside of site triangles.
- (f) Invasive species are to be avoided.

(4) Lighting

- (a) A lighting plan prepared by a qualified professional shall be provided with site plan applications.
- (b) The intensity, shielding, and direction of lighting shall be subject to site plan approval by the approving authority.
- (c) All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated after sunset. The arrangement of exterior lighting shall adequately illuminate parking areas in accordance with the Illumination Engineering Society standards and be designed as to prevent glare to adjoining residential areas.

(5) Sidewalks. Sidewalks shall be required along adjoining public rights of way.

(6) Solid Waste. All solid waste/recycling storage areas shall be enclosed on all four sides by decorative fencing intended to screen such areas of no less than 6 feet in height.

(7) Utilities. All on-site utilities shall be placed underground pursuant to RSIS standards.

(8) Relief from any required site design standard under §365-65, Design Section E enumerated above shall be considered a design standard exception pursuant to N.J.S.A. 40:55D-51 (b) and not a variance.

§ 365-66 Affordable Residential - 2 District (AR-2)

A. Permitted Uses

- (1) Permitted principal uses. Expressly subject to the requirements herein and below, the following uses are permitted as principal uses within the AR-2 District:

Market rate and affordable residential housing within multi-family buildings, senior housing and group homes, and structures providing direct and safe pedestrian access for members of the public across the New Jersey Transit right-of-way to facilitate use of Westmont Train Station are to be permitted.

- (2) Permitted Maximum Number of Housing Units. The AR-2 District shall permit no less than 269 residential housing units but in no event shall the total number of housing units exceed a maximum of 275 residential units. The number of residential units to be constructed shall include an affordable housing set aside of no less than 48 on-site units which shall be set-aside as affordable to low- and moderate-income households. Alternatively, the 48 Units may be achieved by providing up to 31 units of age-restricted affordable housing, up to 15 alternative living arrangement beds, and the remainder units as family affordable housing units, so to provide for the necessary 48 affordable housing units onsite, and provided further that any such alternative arrangement provide at least one (1) family very low income unit as part of the seven (7) total very low income units required to be provided on the site. No alternative arrangement as set forth herein shall be interpreted to permit more than 275 total residential housing units or to reduce the obligation to provide the necessary 48 affordable housing units onsite.
- (3) Pedestrian Bridge Structures located directly adjacent to the existing New Jersey Transit right-of-way providing direct and safe pedestrian access for members of the general public, including residents of the AR-2 Zone, across the New Jersey Transit right-of-way to facilitate use of the Westmont Train Station. Said Pedestrian Bridge Structures shall be subject to site plan review and approval, but shall be exempt from complying with the bulk standards applicable to buildings and structures as set forth in subsection B below. Rather, the specific design of said Pedestrian Bridge Structures, including location, height, size and construction specifications, shall be consistent with existing Pedestrian Bridge Structures used by the Westmont Train Station located in Wood-Ridge, and shall be as permitted and approved by all outside governmental agencies and entities with jurisdiction, including but not limited to New Jersey Transit and the New Jersey Department of Transportation. Said Pedestrian Bridge Structures shall only be permitted to be utilized at such time the general public is provided, and has, safe and direct vehicular and pedestrian access within and across the AR-2 Zone to and from said Pedestrian Bridge Structures.
- (4) Permitted accessory uses.
 - (a) Off-street parking facilities including structured parking. Parking is permitted in the front, side and rear yards except no parking shall be permitted along the frontage of Mount Pleasant Avenue except in structured parking not visible from the public right of way.

- (b) Other uses that are customarily incidental and subordinate to a permitted principal use.
- (c) Common facilities and amenities serving the residents of the multi-family development including common walkways, sitting areas and gardens, and other similar uses.
- (d) Decorative fences and walls no greater than eight (8) feet above ground level within a side or rear yard, and no greater than four (4) feet within a front yard.
- (e) Bike racks.
- (f) Solid waste and recycling area, setback at least five (5) ft. from any rear or side yard. No setback from the parking area is required. The area shall be screened from view from a public right-of-way by either block and/or chain link fence.
- (g) Site lighting in accordance with the standards in subsection § 365-66 E (3) below.
- (h) Retaining walls.
- (i) Electrical transformers.

B. Building Bulk, Area and Size Requirements

(1) Minimum lot area (acres)	4.5
(2) Minimum lot width (feet)	375
(3) Minimum lot depth (feet)	425
(4) Minimum building front yard setback (feet)	40 from Mt. Pleasant 20 from Other ROW
(5) Minimum building side yard setback (feet)	30
(6) Minimum building rear yard setback (feet)	50
(7) Minimum separation between buildings (feet)	45
(8) Maximum building length (feet)	
(a) Along frontage along Mount Pleasant Avenue	200
(b) Other	300
(9) Maximum building coverage (percentage)	50
(10) Maximum lot coverage (percentage)	70
(11) Building heights shall be regulated as follows:	

- (a) To provide for the appropriate transition and relationship of the proposed multistory development to the adjacent residential single-family neighborhood located on Mount Pleasant Avenue to the northwest and taking into consideration the specific topographic conditions within the zone, the regulations regarding permitted maximum building height, as provided herein, are as follows:
- i. It is the intent to restrict all buildings fronting directly along Mount Pleasant Avenue to a building height of 3-stories of residential building over 1 story of structured parking. The maximum building elevation to the highest point of a flat roof or to the deck line of a mansard roof or to the midpoint below the highest peak on a gable, sloped or hip roof shall not exceed mean sea level elevation of 120 feet N.A.V.D. 1988 as measured at the midpoint of the property frontage on Mount Pleasant Avenue utilizing a base elevation of 85 plus 35 feet. This elevation shall be maintained for all buildings within 150 feet of the property line with Mount Pleasant Avenue.
 - ii. Buildings set back beyond 150 feet from Mount Pleasant Avenue as required Section 365-66 B (11) i above shall not exceed a building height as specified in either of the following conditions:
 - a. 4-stories of residential building over 2 stories of structured parking not to exceed a building height of 75 feet measured as the vertical distance from the average elevation of the finished grade to the top of the roof surface for mansard and flat roofs and to the vertical midpoint between the base of the roof and its peak for peaked roofs where direct, safe pedestrian access to the Westmont Train Station is provided and is approved by the appropriate transit authority and others with jurisdiction; or
 - b. 4-stories of residential building over 3 stories of structured park not to exceed a building height of 85 feet measured as the vertical distance from the average elevation of the finished grade to the top of the roof surface for mansard and flat roofs and to the vertical midpoint between the base of the roof and its peak for peaked roofs where additional parking is required due to the lack of an approved, direct access to the Westmont Train Station.
- (b) Group Home building height shall be limited to 2.5 stories not to exceed a building height of 35 feet measured as the vertical distance from the average elevation of the finished grade to the top of the roof surface for mansard and flat roofs and to the vertical midpoint between the base of the roof and its peak for peaked roofs.
- (c) Rooftop appurtenances and penthouses for mechanical equipment and roof access may be permitted to exceed the maximum building height by no more than 10 feet and shall occupy a roof area of no more than 25 percent and be setback no less than 10 feet from the edge of the roofline. Mechanical equipment shall be screened in a

manner that is complementary to the architectural design of the proposed principal building.

- (d) The height of permitted accessory structures (exclusive of Pedestrian Bridge Structures as set forth above) shall not exceed 15 feet.

C. Site Access, Off-Street Parking, and Loading Requirements

- (1) A site access driveway shall be permitted from Mount Pleasant Avenue with a minimum width of 24 feet.
- (2) On site circulation and number and dimensions of parking spaces shall comply with RSIS.
- (3) Required parking may be reduced by the appropriate land use review Board consistent with RSIS standards N.J.A.C. 5:21-4.14(c) provided:
 - (a) A parking demand analysis demonstrating that adequate parking is provided to serve the proposed development is submitted for review and approval by the appropriate land use review Board which may include but not be limited to:
 - i. Implementation of appropriate improvements and physical connections to mass transit facilities that are either in place or approved for construction by the appropriate transit agency within a time frame to be available to serve the proposed development.
 - ii. Alternate parking systems are provided that would include but not be limited to tandem or stacked assigned parking spaces and mechanical or robotic parking systems designed to maximize interior structured parking space or combination of these mechanisms.
 - (b) Parking availability shall be staged such that each phase of development is supported by adequate parking and no building may be occupied unless compliant with the minimum required parking.
- (4) Parking shall be permitted in the front, side and rear yard. No parking setback from a principal or accessory structure is required except as otherwise prohibited.
- (5) There shall be no charge for parking designated for affordable housing units within the development.
- (6) A designated loading area shall be provided to accommodate residential package delivery.

D. Identification Sign.

One (1) wall mounted, non-illuminated address sign is permitted on each face of the building with a maximum area of five (5) square feet per sign, as well as a ground mounted monument sign, at any site driveway, setback from the property line by 10 feet and with a maximum sign area of 32 square feet and maximum height of 6 feet (including base), which may be internally or externally illuminated.

E. Design Standards.

- (1) Except as set forth herein, compliance with Article VI Site Plan Details and Article VII Design Standards for Site Plan Approval of Chapter 330 of the Borough of Wallington Code shall be required. Where any provision of Articles VI and VII is in conflict with any provision of this section, the design standards as enumerated below shall control.
- (2) A multi-family building shall have a unified theme, displayed through the application of common building materials that achieves a harmonious and cohesive design.
- (3) Buffers and Landscaping. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, and screen parking areas. The landscape design shall create visual diversity and contrast through variation in size shape, texture and color. All areas that are not improved with buildings, structures and other man-made improvements shall be landscaped with trees, shrubs, ground cover, street furniture, sculpture or other design amenities and shall be subject to the following:
 - (a) A minimum landscaped buffer of 10 feet shall be maintained along the front and side yards of the site. Buffer areas may overlap required setbacks.
 - (b) Trees shall be installed at a minimum caliper of 2.5 to 3.5 inches caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper but not less than 6 to 8 feet (deciduous and evergreen).
 - (c) Shrubs shall be planted at a minimum size of 18 to 24 inches.
 - (d) All plant material shall meet the minimum latest American Nursery and Landscape Association Standards.
 - (e) Existing vegetation within required buffer areas shall be preserved, as determined appropriate. It shall be supplemented where necessary to provide the required 10 foot planted buffer.

- (f) Irrigation shall be provided for all buffer plantings and landscaped areas in a manner appropriate for the specific plant species.
- (g) Preference shall be given to plants indigenous to the region and invasive species are to be avoided. No less than 30 percent of the plantings shall be indigenous to the region.
- (h) Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.

(4) Lighting

- (a) A lighting plan shall be provided with site plan applications.
 - (b) The intensity, shielding, and direction of lighting shall be subject to site plan approval by the approving authority.
 - (c) All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated after sunset. The arrangement of exterior lighting shall adequately illuminate parking areas in accordance with the Illumination Engineering Society standards and be designed as to prevent glare to adjoining areas.
- (5) Sidewalks. Sidewalks shall be required along adjoining public rights of way and internally to promote pedestrian safety and movement.
- (6) Solid Waste. All exterior solid waste/recycling storage areas shall be enclosed on all four sides by decorative fencing intended to screen such areas of no less than 6 feet in height.
- (7) Utilities. All on-site utilities shall be placed underground pursuant to RSIS standards.
- (8) Relief from any required site design standard under §365-66, Design Section E enumerated above, shall be considered a design standard exception pursuant to N.J.S.A. 40:55D-51 (b) and not a variance.

SECTION 5. Chapter 365, Article VII §365-67 through §365-73 are hereby “Reserved.”

SECTION 6. Chapter 365, Article VIII is repealed in its entirety with Article VIII to be “Reserved” from §365-74 through §365-77.

SECTION 7. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Bergen County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15 and 40:55D-62.1. The Borough Clerk shall execute any necessary Proofs of Service of the notices required by this

section and shall keep any such proofs on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.


SECTION 8. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provision in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 9. If any paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 10. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

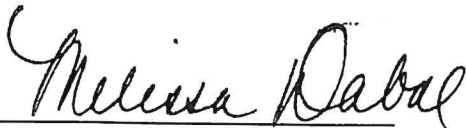
SECTION 11. This ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in accordance with the laws of the State of New Jersey.

Introduction/First Reading

Member	Motion	Second	Aye	Nay	Abstain	Certified as a true copy of a Resolution adopted by the Borough Wallington at a below date meeting.  Greg Zagaja Act. Deputy Borough Clerk
Rachelski		X	X			
Preinfalk			X			
Orzechowski						
Sadecki	X		X			
Ivanicki			X			
Androwis			X			

Approved: May 28, 2020

BOROUGH OF WALLINGTON

By: 
 Mayor Melissa Dabal

Second Reading/Adoption

Member	Motion	Second	Aye	Nay	Abstain	Certified as a true copy of a Resolution adopted by the Borough Wallington at a below date meeting. <hr style="width: 20%; margin-left: auto; margin-right: 0;"/> <div style="text-align: right;">Greg Zagaja Act. Deputy Borough Clerk</div>
Rachelski						
Preinfalk						
Orzechowski						
Sadecki						
Ivanicki						
Androwis						

Approved: June 25, 2020

BOROUGH OF WALLINGTON

By: _____
Mayor Melissa Dabal