

ORDINANCE NO. 20-CODE-803
BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY

This is to certify that this is a true copy
as adopted by the Mayor and Council
of the Borough of Oakland at a meeting
held on February 26, 2020

Borough Clerk [Signature]

AN ORDINANCE TO AMEND, SUPPLEMENT AND REVISE THE CODE OF THE
BOROUGH OF OAKLAND, LAND USE, CHAPTER 59 ENTITLED "LAND USE AND
ZONING"

BE IT ORDAINED by the Borough Council of the Borough of Oakland, County of Bergen, State
of New Jersey, that the following amendments and revisions are made to the Revised General
Ordinances of the Borough of Oakland, Chapter 59 entitled "Land Use and Zoning".

Section 1. Zoning is hereby amended and supplemented by the deletion of existing Section, §59-
52.3 RA-2 Affordable Housing Zone and its subsequent replacement with the following
provisions.

- A. The purpose of the RA-2 Affordable Housing Zone district is to permit the development
of a tract now or formerly designated as Block 4202 Lots 1, 2 and 3 as an inclusionary
residential development consisting of not more than 200 residential units, with twenty
percent of the units being affordable housing units. The creation of the RA-2 Zone is in
furtherance of the Borough's Settlement Agreements in the matter initiated by the
Borough entitled In the Matter of the Borough of Oakland, County of Bergen, Docket
No. BER-L-6359-15 (the "Settlement Agreement"). Through the creation of this zone,
Oakland expects to receive credits and/or financial contributions to be applied to its
affordable housing obligation. The development is to feature a unified comprehensive
and complementary design incorporating common street(s), utilities, stormwater
management and open space elements. It is recognized for financing purposes the
affordable units will be located in a discrete portion of the site and arranged into either
two (2) separate multi-family rental buildings or three (3) separate multi-family buildings
including For-Sale and supportive housing units. It is recognized that much of the land
within the RA-2 zone is wooded and that portions of the slopes on the property exceed
fifteen (15) percent. In order to implement the Settlement Agreements, standards in this
ordinance shall supersede any conflicting standards in the Borough Code to the extent
specifically identified herein.
- B. Permitted Uses and Structures. Within the RA-2 Affordable Housing zone, only the
following principal uses shall be permitted on any property in the zone:
1. Attached single-family dwellings (townhouses), not to exceed 160 such dwellings.
 2. Multi-family buildings which, in the aggregate do not contain more than forty (40)
affordable units, some of which may be supportive housing units if there are for sale
units.
 3. A municipal building, municipal structure, or a municipal use, governmental or
proprietary in nature.

C. Permitted accessory uses and structures allowed in the RA-2 zone are those customarily incidental to the zone's permitted principal uses, do not include any activity conducted for economic gain and are further limited to the following:

1. Attached garages for the parking of passenger vehicles and, if outdoor storage or recyclables and trash is not proposed, trash cans and recycling bins.
2. Driveways and exterior parking areas.
3. Fences and walls.
4. Clubhouses, pools, pool houses, recreational amenities, cabanas, gazebos, garden sheds, hothouses, greenhouses and utility sheds.
5. Unlighted outdoor recreation courts.
6. Maintenance buildings.
7. Utility infrastructure such as pump houses, water mains, metering pits and similar utility improvements made necessary for the development of the property.
8. Signs.
9. Temporary storage containers for refuse and recyclable products, if same are not stored inside a building.
10. Decks, patios and privacy screens, fences and walls.
11. Temporary marketing signs, flags and banners.
12. Temporary sales and construction trailers.

D. Design Intent. The intent in creating the RA-2 zone is to encourage the construction of an inclusionary development consisting of market-rate attached single-family dwellings and affordable multi-family units. Creation of this zone will assist the Borough in addressing its constitutional obligation to create a reasonable opportunity for the construction of housing affordable to low-and moderate-income households. Creation of this zone will also implement one of the conditions contained in a Settlement Agreement with the Fair Share Housing Center that provides the Borough with immunity against inclusionary housing lawsuits.

The maximum number of dwelling units permitted within Block 4202 Lots 1, 2 and 3 is 200 which shall include twenty percent (or up to 40) affordable units. Financial arrangements, separation of ownership units and rental units and ultimate ownership of the property may result in subdivisions whereby market rate units and affordable units are on different lots. This ordinance also anticipates that market rate townhomes may be on individual fee-simple lots and specifically permits the same. The bulk standards for this particular ordinance are based on zone boundary lines not lot lines and are not intended to thwart the purpose and design intent of the zone as expressed herein.

E. Bulk Standards.

1. Overall Tract Requirements.

- i. Overall tract acreage requirement is a minimum of thirty-five (35) acres.
- ii. Minimum tract street frontage on a public roadway is 500 feet.
- iii. All dwellings and other buildings shall be connected to community water and sewer systems, unless buildings do not require services, such as a storage shed.

- iv. Potable water wells are prohibited in this zone.
- v. Individual septic systems are prohibited in this zone.
- vi. Minimum principal building setback to a zone boundary line shall be twenty-five (25) feet.
- vii. Decks, patios and privacy screens, fences or walls and utility pump stations may extend to within fifteen (15) feet of a zone line.
- viii. Maximum tract building coverage shall not exceed 25%.
- ix. Maximum tract impervious coverage shall not exceed 40%.
- x. All pervious areas of the site that are disturbed during site construction shall be landscaped pursuant to the landscape plan approved by the Planning Board by the developer prior to the issuance of the last certificate of occupancy.
- xi. A pool and clubhouse for residents and their guests shall be constructed, which shall be available for both market rate and affordable units. This requirement may be satisfied by one pool and clubhouse shared by the market rate and affordable units whether or not the market rate and affordable units are in different forms of ownership. These recreational and social amenities shall not be located in the required front yard located along McCoy Road.
- xii. The average height of retaining walls used in connection with any stormwater retention and/or detention basin, as measured at 50 foot intervals at finished grade adjacent to the wall, shall not exceed twenty-three (23') feet. All other retaining walls may be no higher than fifteen (15) feet in height. If retaining walls are tiered, there shall be a minimum two (2) foot horizontal separation between tiers.
- xiii. Slopes: Within the RA-2 Zone, Section 59-66.3(E) of the Borough's ordinance shall be modified so that the Allowable Disturbance of slopes shall be as generally shown on the concept plan attached as Exhibit A to the Settlement Agreement dated ____, 2019 between the Borough and James Fanale and Joachim Fanale, as Co-Executors of the Estate of Salvatore J. Fanale (the "Concept Plan") to provide as follows:

Construction Control Limitations:

Slope Category	Allowable Disturbance		
0.0% – 14.9%	100%		
15.0% - 24.9%	50%	Above 24.92	30%

The Allowable Disturbance is the percentage of the slopes in the applicable category that may be disturbed. All activities, including buildings, roads, walls, utilities and grading, are allowed up to the permitted percentage of Allowable Disturbance as generally depicted on the Concept Plan. xiv. No separate soil movement application shall be required. The development application will include the information within Section 59-73 of the Borough code, with the

exception of: Sections 59-73(A) 12, 13, 16 and 20; and Section 59-73(C) shall be submitted to the Planning Board as part of a site plan application. Soil movement fees shall be reduced by twenty percent in consideration of the fact that twenty percent of the units to be constructed shall be set-aside for very low, low and moderate income housing. The review of soil movement ordinance requirements shall be undertaken by the Planning Board at the time of site plan review. Section 59-73(H) shall not be applicable to the RA-2 Zone. Any appeal related to soil movement determinations shall be made to the Superior Court of New Jersey in a prerogative writs action.

xiv. The developer shall establish an organization or organizations for the ownership and maintenance of off-street parking areas, private streets, retaining walls, signs (both regulatory and site identification) recreational and social amenities and facilities including clubhouse and pool(s), utility infrastructure and all common areas, including stormwater management infrastructure and basins all for the continuing benefit of the development's residents.

xv. The Tree Removal and Protection Ordinance of the Borough of Oakland, Chapter XIX of the Borough of Oakland Code, shall apply outside of the approved area of disturbance.

xvi. The recycling provisions of the municipal ordinance (Section 59-42.1(b)) shall not apply if there is storage space available within individual housing units, including garages, for trash/recycling and curb side pick-up will be provided; or if there are storage areas for trash/recycling within multi-family buildings. If trash and recycling materials are not stored within a building, these materials shall be stored within six-foot-high enclosures subject to review by the Planning Board. The enclosure shall have a concrete floor and be surrounded with landscaping on every side except for the side providing access.

xvii. Private and/or public roadways, parking spaces, drive aisles and parking lots in general shall be designed and constructed pursuant to N.J.A.C.5:21. The number of parking spaces shall be pursuant to Residential Site Improvement Standards requirements. Consistent with RSIS, the requirement to have parking under lock and key (Boro Code Section 59-61.F(11)) and the restriction on front yard parking (Boro Code Section 59-61.J) shall not apply. Parking in front of the buildings shall be permitted but parking in the McCoy Road front yard set-back shall not be permitted.

xviii. Parking light and walkway illumination shall be in accordance with §59-40. LED light fixtures are encouraged.

2. Affordable Housing.

i. Twenty (20) percent of the housing units on the tract shall be affordable housing units. The affordable units shall be rentals; or, in the alternative, the affordable housing units may consist of thirty-six (36) For Sale and four (4) supportive housing units. The supportive housing units shall include at least twelve (12) bedrooms in total. The option to provide affordable For-Sale and supportive housing units shall be available, provided that the developer also makes a \$1.5 million contribution to Oakland's affordable housing trust fund in accordance with and as set forth in the Settlement Agreement between the

Borough of Oakland and Fair Share Housing Center dated July 10, 2019. The affordable housing shall be deed restricted and shall be constructed, affirmatively marketed and priced to comply with the State's Uniform Housing Affordability Control (UHAC) standards.

ii. The affordable housing units shall be arranged either in two (2) separate multi-family rental buildings, or three (3) separate multi-family buildings containing For Sale units and supportive housing units. Each building shall contain no more than twenty-five (25) units. Not more than 20% of the affordable units shall be studio or one-bedroom units. Not less than 20% of the affordable units shall be three (3) bedroom units.

iii. The buildings containing affordable housing units shall be designed with colors, materials or architectural features that break-up the façade so that they do not appear as monolithic buildings.

iv. Minimum building setback from McCoy Road is sixty-five (65) feet.

v. Maximum building height is three (3) stories and a maximum average height of forty-five (45) feet as measured at ten (10) foot intervals along the front building wall from the finished grade immediately adjacent to the building to the highest point of the roof surface.

vi. Minimum parking buffer from McCoy Road shall be seventy-five (75) feet.

vii. For units without a garage/driveway, access to and from individual parking spaces shall be from a parking lot drive aisle, not a street or common element road. Each individual parking space shall have direct and unfettered access to a parking lot drive aisle. The parking drive aisle shall be twenty-four (24) feet in width.

viii. All barrier-free pedestrian facilities, including the required number and design of barrier-free parking spaces shall be constructed in accordance with applicable Federal ADA standards and requirements and New Jersey barrier free construction regulations.

ix. A privacy screen, fence or wall no greater than six (6) feet in height may be installed perpendicular to the rear building wall of affordable units.

3. Attached market rate single-family dwellings.

i. Maximum height is two and a half (2 ½) stories with walk-out or partially exposed basements classified as a half story. Uninhabitable attic space is exempt from story count; habitable attic space is not exempt from story count.

ii. Maximum average building height shall be thirty-five (35) feet as measured at ten (10) foot intervals along the front building wall from the finished grade immediately adjacent to the building to the highest point of the roof surface. The maximum average building height on all four (4) sides of the building, measured at ten (10) foot intervals from the finished grade immediately adjacent to the building to the highest point of the roof surface, shall be forty-six (46) feet. The maximum height for an accessory building shall be thirty-five (35) feet.

iii. Minimum building setback from a common or internal road is twenty (20) feet.

iv. Minimum setback to a zone line is thirty (30) feet. Decks, patios and privacy screens, fences and walls are permitted to extend to within fifteen (15) feet of a zone boundary line.

v. Minimum separation between individual dwellings is:

- | | |
|-------------------|----------|
| a. Front to front | 60 feet |
| b. Front to side | 40 feet |
| c. Side to side | 20 feet |
| d. Side to rear | 25 feet |
| e. Rear to rear | 30 feet. |

vi. If the market rate dwellings are on separate fee simple lots (as opposed to condominium form of ownership), no minimum lot areas, lot width or lot depth is required. All uses accessory to the dwelling, such as driveways, entry walks, decks and patios shall be located on the same lot as the dwelling and all buildings containing individual dwellings shall comply with the building separation requirements set forth in the preceding sub-paragraph (v).

vii. The maximum number of connected dwellings is 6; 3 is the minimum.

viii. Each attached single-family dwelling shall be equipped with no less than 1 garage space. Garage space shall be used for the parking and temporary storage of motor vehicles, and the storage of trash/recycling receptacles. This space shall not be converted into any other type of room.

ix. Parking spaces, drive aisles, private roads (including drainage and illumination improvements) pedestrian walkways and parking lots in general shall be designed and constructed pursuant to N.J.A.C.5:21. The required number of parking spaces shall be pursuant to the Residential Site Improvement Standards.

4. Signs

i. Two (2) freestanding signs identifying this development are permitted at the entrance to the development on McCoy Road. Sign setback shall be ten (10) feet from the public right of way if a public street. Said sign message shall not exceed twenty-four (24) square feet (measured inside the frame) in area on any one side. Top of sign message shall not exceed twelve (12) feet from surrounding grade. Signs shall be illuminated by exterior lights and the sign base shall be landscaped. These signs may be double-sided. In addition, a temporary construction and marketing sign of forty (40) square feet, set-back ten (10) feet from the right-of-way line, shall be permitted. Temporary marketing flags and banners shall be permitted within the site, and no such temporary marketing flag, sign or banner shall be located closer than twenty-five (25) feet from the public right-of-way line. All temporary signs, flags or banners shall be removed at the sale of the last unit.

ii. Additional freestanding signs shall be permitted within the development site identifying the market rate development and identifying the affordable rental development, if the affordable units are rental. Two (2) identification signs shall be permitted for the market rate development and two (2) identification signs shall be permitted for the affordable rental development. These signs shall be located at least fifty (50) feet from the public right-of-way line of McCoy Road and set back setback at least ten (10) feet from a private road private road but shall not be located within any sight triangle. The sign message shall not exceed twenty-four (24) square feet (measured within the frame) in area on any one side. The top of the sign message shall not exceed twelve (12) feet from surrounding grade. Signs may be illuminated by exterior lights and the sign base shall be landscaped.

iii. Directional and wayfaring signs shall be permitted within the development in order to as guides to residents, visitors and guests, including emergency service providers of the Borough. Signs shall be limited to eight (8) square feet and shall be no closer than five (5) feet from any curb line. Building number signs affixed to buildings also shall be permitted as approved by emergency service providers of the Borough.

F. Compliance with all applicable New Jersey Department of Community Affairs (NJDCA) conditions and requirements. All affordable dwelling units constructed and occupied in the RA-2 zone shall comply with all applicable NJDCA and UHAC conditions and regulations pertaining to affirmative marketing of affordable dwellings throughout Region 1, selection of occupants, occupant's income and family size, deed restrictions both to terms and length and including the specific items listed below:

1. No less than 13% of the affordable housing units constructed in this zone shall be reserved for very low-income households earning 30% of median income or less.
2. No less than 37% of the affordable housing units constructed in this zone shall be reserved for low income households earning 50% of median income or less.
3. No less than 50% of the affordable housing units constructed in this zone shall be reserved for moderate income households earning 80% of median income or less.
4. The allocation of affordable housing units to very low, low and moderate income households as set forth in subparagraphs (1), (2) and (3) above shall not apply to any supportive housing units constructed in this zone.
5. The determination as to the income level that qualifies as "very low", "low" and "moderate" shall be based upon the most recent regional income limits established in accordance with Paragraph 13 of the Settlement Agreement.
6. Dwellings on a zone-wide basis shall be constructed and completed pursuant to the schedule below. The developer of the market rate units in the RA-2 zone shall not be entitled or eligible to receive a Certificate of Occupancy for the 41st market rate dwelling unless it shall have first secured a Certificate of Occupancy for no less than four (4) affordable dwellings. The developer of the market rate

units in the RA-2 zone shall not be entitled or eligible to receive a Certificate of Occupancy for the 81st market rate dwelling unless he shall have first secured a Certificate of Occupancy for no less than 20 affordable dwellings constructed in the RA-2 zone. The developer of the market rate units in the RA-2 zone shall not be entitled or eligible to receive a Certificate of Occupancy for the 121st market rate dwelling unless it shall have first secured a Certificate of Occupancy for no less than 30 affordable dwellings constructed in the RA-2 zone. Not more than 144 market rate dwellings can be issued a Certificate of Occupancy in this zone unless all of the affordable dwellings in the RA-2 zone have received a Certificate of Occupancy.

Percentage of Market Rate Dwellings Completed in RA-2 Zone	Number of Market Rate Dwellings Completed in RA-2 zone	Minimum Percentage of Low and Moderate Income Dwellings Completed	Number of Low and Moderate Income Dwellings Completed
25%	40	0%	0
25% plus 1 unit	41	10%	4
50%	80	50%	20
75%	120	75%	30
90%	144	100%	Balance up to 40

Section 6

The intent of this Ordinance is to effectuate the Borough's Settlement Agreements in the matter initiated by the Borough entitled In the Matter of the Borough of Oakland, County of Bergen, Docket No. BER-L-6359-15. All Ordinances of the Borough of Oakland which are inconsistent with the provisions of this Ordinance are hereby superseded to the extent of such inconsistency.

Section 7

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.


Section 8

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:


Lisa Duncan, Borough Clerk

BOROUGH OF OAKLAND
COUNTY OF BERGEN
STATE OF NEW JERSEY

By: 
Linda H. Schwager, Mayor