

**BERNARDSVILLE BOROUGH
ORDINANCE #2026-2041**

**AN ORDINANCE ADOPTING ZONING REGULATIONS NECESSARY TO
IMPLEMENT THE BOROUGH'S FOURTH ROUND SETTLEMENT AGREEMENT
WITH FAIR SHARE HOUSING CENTER AND SUPPLEMENTING AND AMENDING
VARIOUS SECTIONS OF THE BOROUGH LAND DEVELOPMENT CODE**

WHEREAS, the Borough filed a declaratory judgment action in the Superior Court of New Jersey, Somerset County, on July 30, 2025 at Docket No. SOM-147-25 seeking a Certificate of Compliance and Immunity from Exclusionary Zoning Litigation in accordance with the *Fair Housing Act* as amended by *P.L. 2024, c.2* and Administrative Director of the Courts Directive #14-24 seeking a Judgment of Compliance and Repose for a period of ten (10) years from its date of entry; and

WHEREAS, the Borough thereafter settled its declaratory judgment action with the Fair Share Housing Center (“FSHC”) and the terms of that settlement were memorialized in a Mediation Agreement dated December 24, 2025; and

WHEREAS, the mediation agreement with FSHC provides in paragraph 8c that:

“The municipality shall adopt all implementing ordinances and resolutions no later than March 15, 2026, including but not limited to the outstanding items identified in the next paragraph. No later than 48 hours after adoption or March 15, 2026, whichever is sooner, the Borough shall file the information required by Paragraph 10 and any other adopted ordinances and resolutions on eCourts.”; and

WHEREAS, on January 16, 2026, the Honorable William G. Mennen entered an Order approving the settlement agreement with FSHC, granting the Borough continued immunity from exclusionary zoning litigation for the duration of the compliance process; and

WHEREAS, Judge Mennen’s Order further provided that:

“In accordance with N.J.S.A. §52:27D-304.1(f)(2)(c), on or before March 15,

2026, the Municipality adopt and file its Amended HEFSP that contains the terms of the settlement as well as the implementing ordinances and resolutions proposed within the Amended HEFSP”; and

WHEREAS, Borough Planning Jessica Caldwell has prepared and submitted to the governing body for its consideration the ordinances contained herein;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that the Borough Land Use Code is supplemented and amended as follows:

Section 1. Section 12-20 entitled “Affordable Housing Zone Districts” is hereby supplemented and amended by adding the following new sections:

“12-20 AFFORDABLE HOUSING ZONE DISTRICTS

§12-20.8 AHO-8 Affordable Housing District

This zone is comprised of Block 69, Lots 1, 2, 3, and 4.

§ LD-12-20.8.a Primary Intended Use.

1. Townhouses
2. Apartments;
3. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards (RSIS) as applicable; and
4. Other accessory uses customarily incidental to the above uses.

§ LD-12-20.8.b Required Conditions.

1. Height. Building height shall be a maximum of three stories of residential apartments fronting on Claremont Rd; Below grade parking is permitted behind the building provided that it is not visible from Claremont, with the exception of driveway entrances. The maximum building height is the lesser of 50 feet (as measured from the average elevation of the perimeter of the property), or 40___ feet, measured from the average elevation along Claremont Rd.
2. Front Yard. There shall be a front yard of not less than six (6) feet; however, entryways and porches may encroach into the front yard setback, but no more than three (3) feet.

3. Side Yards. Side yards shall be a minimum of five (5) feet.
4. Rear Yards. There shall be a rear yard of at least eight (8) feet.
5. Building Envelope. The building envelope shall exclude areas located within floodplains, wetlands, and wetland buffers, except as may be approved by the New Jersey Department of Environmental Protection (NJDEP). No floodplain, wetland, or wetland buffer shall be disturbed without the appropriate permits having been issued by the NJDEP.
6. Open Space. No more than 85% of the lot may be covered by an impervious surface.
7. Driveway Position. No portion of any driveway hereafter constructed shall be within 10 feet of a lot line of an adjacent property.
8. The maximum number of dwelling units shall be 28 units. An affordable housing set-aside of 20% is required.

§ LD-12-20.8.c Design Standards.

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, this section shall apply.
2. New buildings shall relate architecturally to the historic aesthetics of the structures located in the downtown core.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing complementary and compatible color schemes and materials.
4. Guidelines for the fronts of buildings shall also apply to the rear and sides where they are visible at the street level from a public right-of-way.
5. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless, or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged. Variations in color and massing resembling adjacent structures are encouraged.
6. Mansard roofs and setback top floors are encouraged to reduce massing and appearance of height.
7. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
8. All open space shall be designed and landscaped so as to be visible off-site (i.e. no courtyards that are 100% enclosed by structures

§12-20.9 AHO-9 Affordable Housing District

§ LD-12-20.9.a AHO-9 Affordable Housing Zone.

This zone is comprised of Block 66, Lots 10, 11, 12, 14, and a portion of Lot 22.

§ LD-12-20.9.b Permitted Uses.

1. Multi-family residential ;
2. Townhouses;
3. Accessory parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards (RSIS) as applicable; and
4. Other accessory uses customarily incidental to the above uses.

§ LD-12-20.9.c Required Conditions.

1. Height requirements.
 - a. Number of stories: Maximum four (4) stories
 - b. 50 Feet

Notwithstanding anything to the contrary in Chapter 12 (Zoning) or elsewhere in the Borough Code, for purposes of determining number of stories and building height, the predevelopment grade for any development within this zone shall be the lowest elevation along the front yard setback of the primary street, which, for the avoidance of doubt, shall be State Highway Rt 202.

2. Building articulation.
 - a. Flat façade – Primary street: Maximum 100 feet
 - b. Flat façade – Secondary street: Maximum 100 feet
 - c. Permitted attachments subject to § 12-12.16: awnings, canopies, balconies, bay windows, chimneys, porches, and stoops.
3. Parking setbacks.
 - a. Primary street: behind the principal building
 - b. Secondary street: behind the principal building
 - c. Side yard: Minimum five (5) feet
 - d. Rear yard: Minimum five (5) feet
4. Parking access.
 - a. Primary street: Maximum one (1) driveway

- b. Secondary street: Maximum one (1) driveway
 - c. Driveway width: Maximum 30 feet
5. Architecture.
- a. Permitted foundation materials: brick masonry, stone masonry, cement-parged concrete block.
 - b. Permitted façade materials: brick masonry, stone masonry, stucco, wood siding/shingles, fiber cement siding/shingles
 - c. Permitted façade accent materials: cast stone, wood, fiber-cement trim, siding, and panels; composite trim, siding, and panels; architectural metal.
6. Sidewalks. Seven (7) foot-wide sidewalks as measured from the top edge of the curb face shall be provided. Where the sidewalk along a property frontage is less than seven (7) feet, the front façade must be setback an additional distance to ensure a seven (7) foot minimum clear sidewalk berth.
7. Principal building setbacks.
- a) Front yard.
 - 1. Primary front yard: Minimum five (5) feet; Maximum 15 feet
 - 2. Secondary front yard: Minimum five (5) feet
 - 3. Entryways and porches may encroach into the front yard setback, but no further than the property line.
 - 4. Side yards. No side yard shall be less than five (5) feet.
 - 5. Rear yards. There shall be a rear yard of at least eight (8) feet.
8. Open Space. No more than 95% of the lot may be covered by an impervious surface. Any open space must have at least one (1) dimension measuring 20 feet on the side and no dimension measuring smaller than three feet, and must be adjacent to and visible from a public street or public access easement”).
9. Driveway Position. No portion of any driveway hereafter constructed shall be within 10 feet of a lot line of an adjacent property.
10. The maximum density shall be 48 units per acre, for a total maximum of 96 units. An affordable housing set-aside of 20% is required (a minimum of 19 affordable units). Affordable units may be age-restricted. Market-rate units may be non-age-restricted.

§ LD-12-20.9.d Design Standards.

- a. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, this section shall apply.
- b. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
- c. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing complementary color schemes and materials.
- d. Guidelines for the fronts of buildings shall also apply to the rear and sides where they are visible at the street level from a public right-of-way.
- e. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged. Variations in color and massing resembling adjacent structures are encouraged.
- f. Mansard roofs and setback top floors are encouraged to reduce massing and appearance of height. Where roofs are setback, balconies are permitted.
- g. Flat roofs shall be enclosed by parapets or other appropriate architectural details.

12-20.10 AHO-10 Affordable Housing District

§ LD-12-20.10 AHO-10 Affordable Housing Zone.

This zone is comprised of Block 100, Lot 2.01, and Block 102, Lots 2 and 13.

§ LD-12-20.10.a Permitted Uses.

- a. Multi-family residential;
- b. Townhouses;
- c. Parking and facilities in accordance with § 9-10 of this chapter or Residential Site Improvement Standards (RSIS) as applicable; and
- d. Other accessory uses customarily incidental to the above uses.

§ LD-12-20.10.b Required Conditions.

- 1. Height requirements.
 - a. Number of stories: Maximum five (5) stories
 - b. Maximum 60 feet

2. Building articulation.
 - a. Flat façade – Primary street: Maximum 200 feet
 - b. Flat façade – Secondary street: Maximum 250 feet
 - c. Permitted attachments subject to § 12-12.16: awnings, canopies, balconies, bay windows, chimneys, porches, and stoops.
3. Parking setbacks.
 - a. Primary street: behind the principal building
 - b. Secondary street: Minimum five (5) feet
 - c. Side yard: Minimum five (5) feet
 - d. Rear yard: Minimum five (5) feet
4. Parking access.
 - a. Primary street: Maximum two (2) driveways
 - b. Secondary street: Maximum one (1) driveway
 - c. Driveway width: Maximum 30 feet
5. Architecture.
 - a. Permitted foundation materials: brick masonry, stone masonry, cement-parged concrete block.
 - b. Permitted façade materials: brick masonry, stone masonry, stucco, wood siding/shingles, fiber cement siding/shingles
 - c. Permitted façade accent materials: cast stone, wood, fiber-cement trim, siding, and panels; composite trim, siding, and panels; architectural metal.
 - d. Architectural design, story height, roof design and parking should take into account visual impact from Route 202, with efforts to minimize massing, scale and lighting impacts.
6. Sidewalks. Five (5) foot-wide sidewalks as measured from the top edge of the curb face shall be provided. Where the sidewalk along a property frontage is less than five (5) feet, the front façade must be setback an additional distance to ensure a seven (7) foot minimum clear sidewalk berth.
7. Principal building setbacks.
 - a) Front yard.

- a. Primary front yard: Minimum five (5) feet; Maximum 15 feet
 - b. Secondary front yard: Minimum five (5) feet
 - c. Entryways and porches may encroach into the front yard setback but no further than the property line.
 - d. Side yards. No side yard shall be less than five (5) feet.
 - e. Rear yards. There shall be a rear yard of at least eight (8) feet.
8. Open Space. No more than 85% of the lot may be covered by an impervious surface. Any open space provided at ground level must have at least one (1) dimension measuring 20 feet on the side and no dimension measuring smaller than three feet.
 9. Driveway Position. No portion of any driveway hereafter constructed shall be within 10 feet of a lot line of an adjacent property.
 10. The maximum number of dwelling units shall be 180 units. An affordable housing set-aside of 20% is required (a minimum of 36 affordable units).

§ LD-12-20.10.c **Design Standards.**

1. The design standards contained herein shall supplement the design and performance standards contained in Article 9-10 of Borough of Bernardsville Regulations. If there is a conflict, this section shall apply.
2. New buildings shall relate to existing buildings and other structures in the vicinity that have a visual relationship to the site.
3. Multiple buildings on a single tract shall be designed so as to be architecturally compatible with one another, utilizing complementary and compatible color schemes and materials.
4. Guidelines for the fronts of buildings shall also apply to the rear and sides where they are visible from a public right-of-way.
5. Buildings shall be designed so as to prevent exterior elevations from containing large expanses of blank, windowless, or featureless walls. Also, large expanses of windows, including curtain-wall windows and other design elements not at a human scale, are strongly discouraged.
6. Flat roofs shall be enclosed by parapets or other appropriate architectural details.
7. All open space shall be designed and landscaped in a way to allow for easy maintenance and limited encroachment onto any public right-of-way.

Section 2. Paragraph “a” entitled “Zoning Map Amendments” in subsection 12-2.2 entitled “Zoning Map” is hereby supplemented and amended by adding the locations described in section 1 above.

Section 3. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 4. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 5. This ordinance shall become effective immediately upon final passage and publication as required by law.

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

ATTEST:

Anthony Suriano, Borough Clerk

By: _____
Mary Jane Canose, Mayor