

**LEGAL NOTICE
ORDINANCE NO. 12
2021
TOWNSHIP OF WAYNE
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

**AN ORDINANCE TO AMEND CHAPTER 134 (LAND DEVELOPMENT) OF
THE CODE OF THE TOWNSHIP OF WAYNE**

WHEREAS, on September 16, 2020, the Township Council of the Township of Wayne adopted Resolution No. 267 of 2020 Authorizing Settlement of Litigation in the Matter Entitled In the Matter of the Application of the Township of Wayne Bearing Docket No. PAS-L-2396-15 with Waynebridge Plaza, LLC, a New Jersey limited liability company with offices located at c/o Pagano Real Estate, Inc., 420 Boulevard, Suite 201, Mountain Lakes, NJ 07046 with respect to real property owned by Waynebridge Plaza, LLC ("Developer") identified as Block 3207, Lots 18 and 19 on the Tax Assessment Map of the Township of Wayne, more commonly known as 1528-1560 Hamburg Turnpike ("Waynebridge Property" or "Weinmann Tract"); and

WHEREAS, on December 14, 2020, the Township of Wayne ("Township"), the Wayne Planning Board, and Waynebridge Plaza, LLC entered into a Settlement Agreement with respect to the Waynebridge Property ("Waynebridge Plaza Settlement Agreement"); and

WHEREAS, pursuant to the terms contained in the Waynebridge Plaza Settlement Agreement, the Township and the Wayne Planning Board agreed to amend the Zoning Ordinance to provide for the Waynebridge Property as part of the Township's Affordable Housing Plan; and

WHEREAS, the Mount Laurel Incentive District-4 (MLID-4) was created to implement a Consent Order dated October 8, 1991 as approved by the Superior Court of New Jersey by the Honorable Howard H. Kestin, J.S.C., Docket No. W-036738-88 (Ronald R. Pagano v. Township of Wayne, et al. - Consent Order as to Weinmann Tract) to assist the Township in meeting its First and Second Round affordable housing obligations; and

WHEREAS, the Township of Wayne has identified properties and locations that will assist the Township in meeting its obligations for the affordable housing Third Round and Gap Period Obligations;

WHEREAS, the Township of Wayne has resolved to amend and supplement the Mount Laurel Incentive District-4 (MLID-4) in furtherance of the Waynebridge Plaza Settlement Agreement and in furtherance to the bench Order dated January 22, 2021 (written Order pending) of the Honorable Thomas F. Brogan, P.J.Cv. of the Superior Court of New Jersey in the matter entitled In the Matter of the Application of the Township of Wayne, bearing Docket No. PAS-L-2396-15, which remains subject to the Court conducting a 'Fairness Hearing', for purposes of assisting the Township in meeting its Third Round and Gap Period affordable housing obligations; and

WHEREAS, N.J.S.A. 40:55D-62 and 40:55D-65 provide that the governing body may adopt or amend a zoning ordinance related to the nature and extent of the uses of land and structures thereon and a zoning ordinance may restrict buildings and structures according to their type and the nature and extent of their use; and

WHEREAS, the Planning Department recommends the following amendments to the Township's Zoning Ordinance in accordance with the Settlement Agreement authorized pursuant to Resolution No. 267 of 2020; and

WHEREAS, the Township Council has determined that the recommended changes would be beneficial to the Township; and

WHEREAS, Chapter 134 (Land Development) needs to be amended and supplemented to effectuate said changes.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Wayne in the County of Passaic, State of New Jersey as follows:

SECTION 1. Chapter 134 (Land Development), Article III (Zoning Regulations), Section 134-51.6 (Mount Laurel Incentive District-4 (MLID-4) of the Code of the Township of Wayne is hereby **repealed** in its entirety and replaced with the following:

§ 134-51.6 Mount Laurel Incentive District-4 (MLID-4).

A. Intent and purposes. It is the intent and purpose of this district to implement a) the said Consent Order dated October 8, 1991 as approved by the Superior Court of New Jersey, by the Honorable Howard H. Kestin, J.S.C., Docket No. W-036738-88 (*Ronald R. Pagano v. Township of Wayne, et al. - Consent Order as to Weinmann Tract*) as amended by a motion dated June 2, 2009 with respect to the Commercial Development, and b) the said bench Order of the Court dated January 22, 2021 of the Honorable Thomas F. Brogan, P.J.Cv., presiding with respect to the Residential Development, and (2) to assist the Township in meeting its Third Round and Gap Period affordable housing obligations.

B. This district is hereby amended to provide the opportunity for affordable housing via inclusionary development. The Township recognizes it has a constitutional obligation to create a realistic opportunity for the construction of its fair share of affordable housing. The affordable units will assist the Township of Wayne in meeting its Third Round Prospective Need and Gap Period obligations in furtherance of the Township's application for Judgement of Repose as requested under said New Jersey Superior action entitled *In the Matter of the Application of the Twp of Wayne, etc.*, Docket No. PAS-L-002396-15. The MLID-4 zone, as amended, continues to permit the conduct of retail trade and general business as approved under Docket No. W-036738-88.

C. District overview: Properties within this district may be developed either as a commercial development or a multi-family residential development, in accordance with the terms and conditions appearing herein, the terms and conditions contained in the Settlement Agreement and the terms and conditions appearing in the said Court Order dated January 22, 2021. Each development type contains its own unique bulk standards. No property may be developed with both commercial and residential uses.

D. Commercial Development

1. Permitted uses and structures. No structure shall be built for any purpose other than:
 - (a) Any use permitted in the R-30 district subject to R-30 bulk requirements; however, no mixed uses are permitted, i.e., no mixed residential and business use.
 - (b) Stores, shops, business offices, retail shopping centers.
 - (c) Home improvements, garden centers and all related uses.
 - (d) Theater, club, hotel, restaurant, cafeteria, cocktail lounge, amusement or assembly hall or other type structure or installation for recreational use; provided, however, that no permanent amusement park, carnival, circus or similar business operated for a profit shall be permitted in such a district. Business uses involving the sale of alcoholic beverages for off-premise consumption shall not be permitted.
 - (e) Bank, trust company or other financial establishment, business and professional offices or studios.
 - (f) Fire station, police station, post office, telegraph or telephone office, telephone exchange building, library, passenger bus station, taxicab stand, electric substation and other municipal or public buildings.
 - (g) Shop or store for the conduct of retail businesses, stamp redemption center, plumbing or other building or home improvement, newspaper office, printing shop or personal service establishment.
2. Prohibited uses. Prohibited uses shall be the same as those outlined in § 134-28 (Prohibited Uses).
3. Signage. Signs shall be allowed when in accordance with the following limitations:
 - (a) Except as noted below the development may have signs in accordance with the signage permitted in § 134-68.3B (Signs in the Highway Commercial district).
 - (b) All individual tenants shall be allowed signage not to exceed 10% of the building facade area and shall be approved by the Planning Board.
4. Commercial Bulk requirements:
 - (a) Area and width of lot: The minimum lot area requirement for any purpose shall be a minimum of 6.30 acres. The minimum lot width shall be 200 feet.
 - (b) Building height: The maximum allowed building height shall be 2 stories or 25 feet as measured from average finished grade directly adjacent to the building to the mean of any sloped roof. In the case of a flat roof structure the height shall be measured to the top of the roof parapet. All mechanical equipment and its related screening structures shall be allowed an additional 5 feet of height.
 - (c) Required yards and setbacks:
 - (i) Front - 100 feet. All principal buildings shall be set back a minimum of 100 feet from the Paterson-Hamburg Turnpike existing right-of-way and 75 feet from Geoffrey Way.
 - (ii) Side - 25 feet. A minimum set back of 25 feet shall be required from all side lot lines.
 - (iii) Rear - 50 feet. A minimum set back of 50 feet shall be required from all rear lot lines.

(iv) Buffer area - a minimum of 50 feet wide of continuous planted landscaped area shall be provided along the easterly sideline opposite the residentially developed area.

(d) Coverage:

- (i) The maximum allowed gross square footage of building shall not exceed 20% of the lot area provided that the ground floor shall not contain more than 45,000 square feet and the second floor shall not contain more than 10,000 square feet, and further provided that the plan complies with all other requirements of this chapter.
- (ii) The maximum allowed total impervious coverage shall not exceed 60%.
- (iii) Open space requirement. There then shall be a minimum of 15% landscaped open space provided.
- (iv) The maximum allowed disturbance area shall not exceed 70% of the total lot area.

(e) Parking: Parking shall be provided pursuant to § 134-31.2.

5. Except as noted above, all other codified development standards in effect as of the execution of the aforementioned Consent Order shall apply to development in this district.

6. To the extent of any inconsistency between the standards contained herein and those contained in the aforementioned Consent Order, the Consent Order shall govern.

7. Nothing herein shall limit the powers of the municipal agency to process and approve development applications for the subject district in accordance with law and the codified development standards in effect prior to passage of this ordinance.

E. Residential Development

1. Permitted Principal Uses and Structures. No structure shall be built for any purpose other than:

- (a) Dwelling, Multi-Family (commonly known as apartments or 'flats') with no age restrictions
- (b) Uses listed in § 134-29 and § 134-30 of the Code of the Township of Wayne

2. Permitted Accessory Uses

- (a) Customary and accessory uses including, but not limited to, recreational facilities, dog walks, fences, walls, signs, surface parking and sheds
- (b) Temporary rental and construction trailers
- (c) Signs and banners pursuant to § 134-68.I(2)
- (d) Signage pursuant to § 134-68.2(G)

3. Development Yield/Buildings:

- (a) Density Yield: a maximum of 98 residential units.
- (b) Number principal buildings: One (1)

4. Affordable housing Regulations

All inclusionary housing developments built in accordance with this section shall contain a mandatory set-aside of Affordable housing and as an inclusionary development permitted by this ordinance, at least 15% of the total for-rent residential units and 20% of the total for-sale residential units developed pursuant to the Settlement Agreement for the property as noted herein, must be Affordable to low- and moderate-income households. In the event that the required total number of residential units does not result in a full integer, the developer shall round up to the nearest full integer. The percentage of units required to be set-aside will be specified within each Mt. Laurel/affordable housing Zone based on whether the development is proposed to be for-sale or for-rent.

The inclusionary affordable units shall be developed and administered in accordance with the Fair Housing Act (NJSA 52:27D-301 et. seq.), COAH's regulations and UHAC regulations (N.J.A.C. 5:80-26.1), and as required under Chapter 213, Affordable Housing Regulations, of the Code of the Township of Wayne. Such requirements include but are not limited to the following:

(a) Income Distribution:

- (i) 50% of the total number of affordable units (rounded up) provided as affordable to low income households
- (ii) 13% of the total number of affordable units (rounded up) provided as affordable to very-low income households. This percentage may be included in the calculation of the 50% low income set-aside.
- (iii) Each income level (very-low income, low income, moderate income) shall be proportionally allocated across each bedroom size, or in the alternative all very low income units shall be two-bedrooms and the low and moderate income units shall be proportionally allocated across each bedroom size.

(b) Bedroom Distribution of Units Not Age-Restricted

- (i) No more than 20% of all affordable units shall be composed of efficiency and one-bedroom units.
- (ii) At least 30 percent of all low- and moderate-income affordable units shall be composed of two-bedroom units.
- (iii) At least 20 percent of all low- and moderate-income affordable units shall be composed of three-bedroom units.

(c) Phasing of Affordable Units: Conformance with N.J.A.C. 5:93-5.6(d)

(d) Affirmative marketing requirements: Conformance with N.J.A.C. 5:80-26.14 to 26.17.

5. Residential Bulk requirements:

(a) Lot Size

- (i) Minimum Lot Size: 5 Acres

(b) Minimum Setbacks

- (i) Front: 80 feet from Paterson-Hamburg Turnpike
- (ii) Front: 40 feet from Geoffrey Way

- (iii) Rear: 50 feet

(c) Maximum Heights:

- (i) 3.5 Stories

- (ii) Building: 44 feet (using standard Township definition of building/structure "height")

- (iii) Mechanical: 49 feet (using standard Township definition of building/structure "height")
- (d) Maximum Impervious Coverage: 65%
6. Parking: Minimum Parking shall be provided pursuant to RSIS requirements.
7. Exemption from limitation on development
Development is exempt from the standards set forth in the following ordinances to the extent necessary to implement the Settlement Agreement and to reduce cost-generating measures:
- (a) § 134-91.2 (Calculation of number of building lots for subdivision and the number of units for site plans), which adjusts the number of units permitted in a site plan;
 - (b) § 134-91.3(A) and (B) (Slope and Soil Disturbance regulations which adjust minimum lot areas and maximum allowable disturbance areas);
 - (c) § 134-96.4 (General Requirements to Regulations for Slope and Soil Disturbance which adjust maximum allowable site disturbance);
 - (d) § 134-85.3(B) (Tree Preservation) shall not be applicable within the area of disturbance;
 - (e) Development is subject to the requirements of § 134-91.4 (Tree Removal) except that trees over 18" in caliper within the area of disturbance may be removed, an estimate of trees over 8" in caliper shall be required but a precise count shall not be required and no fee in lieu shall be assessed;
 - (f) Development is exempt from the fees described in § 213-66.
8. Site Design: The configuration of residential buildings, recreation facilities, roadways, and other improvements shall be substantially consistent with the concept plan adopted as part of the settlement agreement between the Township of Wayne, the Township of Wayne Planning Board, and Waynebridge Plaza, LLC dated December 14, 2020.

SECTION 2. As required by N.J.S.A. 40:55D-64, prior to the hearing on adoption of this ordinance, on behalf of the Township Council, the Township Clerk shall refer this ordinance to the Wayne Planning Board for its review and comment pursuant to N.J.S.A. 40:55D-26. The Township Clerk shall also send a copy of this ordinance to the clerk of an adjoining municipality involving property situated within 200 feet of such adjoining municipality in accordance with N.J.S.A. 40:55D-15. In addition, the Township Clerk shall give notice of a hearing on an amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district to the owners of all real property as shown on the current tax duplicates located within 200 feet in all directions pursuant to N.J.S.A. 40:55D-62.1.

Upon adoption, the Township Clerk shall send a copy of this ordinance to the Passaic County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 3. All other provisions of Chapter 134 of the Code of the Township of Wayne shall remain unchanged.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sub-section, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 6. Codification. This Ordinance shall be a part of the Code of the Township of Wayne as though codified and fully set forth therein. The Township Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Township Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Wayne in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 7. This ordinance shall take effect twenty days after final passage, adoption, and publication in the manner prescribed by law.

ATTEST:

PAUL V. MARGIOTTA
TOWNSHIP CLERK

RICHARD JASTERZBSKI
PRESIDENT OF THE COUNCIL

NOTICE

I hereby certify that the aforementioned ordinance was published in the Herald News, a newspaper published in the County of Passaic and circulated in the Township of Wayne, in the issues of February 10, 2021 and April 14, 2021.

PAUL V. MARGIOTTA
Township Clerk

This ordinance is hereby approved this 8th day of April 2021.

ADOPTED ON: April 7, 2021

CHRISTOPHER P. VERGANO
Mayor