

**TOWNSHIP OF MANSFIELD
BURLINGTON COUNTY**

ORDINANCE 2021 – 8

**AN ORDINANCE TO AMEND THE CODE OF MANSFIELD TOWNSHIP
CHAPTER 65, ZONING, TO DELETE AND REPEAL ARTICLE XVIIIIC,
R-6 RESIDENCE DISTRICT TO REPLACE SAME IN ITS ENTIRETY
AND TO CREATE AND ADOPT A NEW ZONING DISTRICT, ARTICLE
XVIIIIC, R-6, RESIDENCE DISTRICT CONSISTING OF BLOCK 42,
LOTS 1 & 2.02 (“CARTY PROPERTY”)**

WHEREAS, Centex Corporation (now Pulte), Mansfield Township (“Township”) and the Mansfield Township Planning Board are parties to a certain 2005 Settlement Agreement (the “2005 Settlement Agreement”); and

WHEREAS, the 2005 Settlement Agreement resolved litigation between the parties concerning the development of property in the Township identified in the Settlement Agreement and known as Block 41, Lot 2.01 (the “Reed Property”) and Block 42, Lots 1 and 2.02 (“the “Carty Property”); and

WHEREAS, the 2005 Settlement Agreement provided for dedication of the Reed Property to the Township, which has been accomplished and completed; and

WHEREAS, the 2005 Settlement Agreement further provided for the development of the Carty Property for market rate age restricted homes, with a required set-aside for affordable housing; and

WHEREAS, the Township and the Mansfield Township Planning Board (“Board”) were subsequently named as defendants in litigation filed by the developer of Block 70, Lot 6.02, consisting of approximately 118.53 acres (“Tower Gate Property”) in the Superior Court of New Jersey, Law Division, entitled Tower Gate Associates v. Township of Mansfield, et al, Docket # L-1739-18, challenging the Township's satisfaction of its affordable housing obligation and seeking to construct an inclusionary development on the Tower Gate Property; and

WHEREAS, as part of the settlement of said litigation, the Township prepared a new Housing Element and Fair Share Plan (“HE/FSP”) to satisfy the Township’s constitutional obligation to provide for its prior Rounds and Round Three affordable housing obligation; and

WHEREAS, said HE/FSP provided, on page 52 that, the Carty Property was already recognized as “available, suitable, developable and approvable” under applicable COAH regulations, and thus was and is an appropriate affordable housing site; and

WHEREAS, the HE/FSP further provided, on page 53, that the Carty property would be developed for affordable housing as a necessary component of the Township’s overall affordable housing obligation, and to accommodate said affordable housing, the Property would be rezoned for a density of four units per acre with a 20% set-aside for affordable housing, of which 13% would be available for very-low income housing; and

WHEREAS, on February 3, 2020, the Court Master David J. Banisch, PP/AICP, issued a “Fairness Report” reviewing the Township’s proposed HE/FSP; and

WHEREAS, on February 18, 2020, the Hon. Jeanne T. Covert, A.J.S.C., Burlington County Superior Court of New Jersey, Law Division, after the required “Fairness Hearing”, and the Court Master’s Fairness Report, entered and filed an Order (“Fairness Order”) conditionally approving the Township's HEFSP; and

WHEREAS, the Fairness Order further required the Township to satisfy all of the conditions of the Court Order, during the Court-ordered compliance phase, including an agreement with Pulte Homes as set forth in section 2(e) below:

“During the compliance phase, the Township shall provide to the Special Master, and to the Court, a Development Agreement between Mansfield Township and Pulte Homes and/or its successor-in-interest, as well as an inclusionary Zoning Ordinance to address the Pulte Homes component of the Township's overall HE/FSP. The percentage of the proposed affordable housing set-aside should be clarified and revised if necessary in the draft HE/FSP. The draft HE/FSP, the Development Agreement and Zoning Ordinance should specify the correct percentage of affordable units and identify applicable compliance parameters regarding income mix, bedroom mix, thirteen per cent (13%) very low income, affirmative marketing, 30 year income controls, consistent with HUAC Section 5:80 and any other relevant information and standards required to be met.”; and

WHEREAS, as required by the Fairness Order, the Township negotiated an Amendment to the 2005 Settlement Agreement (the "Amendment"); and

WHEREAS, the Amendment provided, *inter alia*, for the aforesaid rezoning of the Carty Property at a gross density of four units per acre with a 20% affordable housing set-aside,

and further provides for development of the property in two phases. The first phase of the development will generate a portion of the required number of affordable units to satisfy the Township's current affordable housing obligation in Rounds Two and Three, based on the HE/FSP and the Court Order. The Amendment permits development of market housing in the second phase based on the Township's need to provide the required number of affordable units that the Township may be obligated to provide in the future, including Round Four, which is unknown at this time; and

WHEREAS, on January 2, 2021, the Court Master David J. Banisch, PP/AICP, provided the Court with an updated Compliance Report advising the Court of the Township's compliance with the Fairness Order and setting forth the remaining conditions for the Township to obtain a Final Judgment of Compliance; and

WHEREAS, the Court Master's updated Compliance Report approved the Amendment to Settlement Agreement and required the Township to adopt an inclusionary zoning ordinance implementing the terms of the Amendment, after first submitting a draft of same to the Court Master for review and approval; and

WHEREAS, on January 8, 2021, after reviewing the Township's efforts to comply with the terms and conditions of the Fairness Order and the Special Masters updated Compliance Report, Judge Covert entered an Interim Order of Compliance and Judgment of Repose, with conditions, (the "Interim Order") adopting the conditions set forth in the Court Master's updated Compliance Report, including the condition requiring the adoption by the Township of the inclusionary zoning ordinance implementing the terms of the Amendment to the 2005 Settlement Agreement, as herein set forth below; and

WHEREAS, the Township Committee finds that the adoption of this Ordinance is in the best interests of the residents and citizens of Mansfield Township for the following reasons:

1. As set forth in the 2005 Settlement Agreement, the Carty property was already approved for market rate housing at a density required to generate affordable housing on the site.
2. The Carty Property has already been recognized as "available, suitable, developable and approvable" under applicable COAH regulations, and thus was and is an appropriate affordable housing site.

3. The Carty property was already designated as an affordable housing site and a part of the Township's Housing Element and Fair Share Plan (HE/FSP) approved by Court Order.
4. The density and affordable housing set-aside in the first phase of the development of the Carty Property is directly tied to the Township's constitutional obligation to provide for its regional share of affordable housing in the prior Rounds and Round Three, as set forth in the HE/FSP and the Court Order approving same.
5. The density and affordable housing set-aside in the first phase of the development of the Carty Property further provides a "buffer" to protect the Township against non-compliance with the HE/FSP and the Court Order approving same, based on other components of the HE/FSP.
6. The density and affordable housing set-aside in the phase 2 of the development of the Carty Property is directly tied to the Township's constitutional obligation to provide for its regional share of affordable housing in Round Four and in the future, which at present is unknown.
7. The provisions of the Amendment protect the Township against future builders remedy litigation and the need to identify other sites for affordable housing both now and in the future.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Mansfield, in the County of Burlington and State of New Jersey, as follows:

The Code of the Township of Mansfield, Chapter 65 is hereby amended to delete and repeal Chapter 65, Article XXXIVC, R-6 Resident District, to replace same in its entirety and to create and adopt a new Zoning District Chapter 65, Article XVIIIIC R-6 Resident District, as follows:

Article XVIIIIC R-6 Residence District

86-35 Purpose

The purpose of the R-6 Residence District is to provide for inclusionary development that is intended to assist the Township of Mansfield in satisfying a portion of its fair share housing obligation.

86-36 Description of Zone Boundary

The boundary of the R-6 Residence District shall encompass the property identified as Block 42, Lots 1 and 2.02, which shall hereafter be referred to as the "Tract". The district boundary shall extend to the centerline of the mapped rights-of-way contiguous to the Tract. The municipal Zoning Map is hereby amended to reflect same.

86-37 General Provisions

- A. Except as may be expressly provided and elsewhere in this Ordinance, the development regulations set forth in this Article shall apply to the Tract as a whole, not to individual lots which may be created therein.

- B. Affordable Housing. The Affordable Housing requirements are based on the number of affordable housing units required for the Township to meet its constitutional affordable housing obligation. 20% of the total number of units will be deed restricted for low and moderate-income family rental housing ("affordable units"); however, the remaining balance of the housing units will not be deed restricted for low and moderate income housing ("market units"). None of the affordable units or market rate units will be age restricted housing. The affordable units must include 13% very low-income housing units.

- C. The Tract will be developed in two (2) phases, as shown on the Settlement/Concept Plan Map produced by FWH Associates, P.A., dated 1/27, 2021, and included as Exhibit A.
 - (1) The application for, and requested approval of, the first phase of the development of the tract will be limited to a maximum of three hundred and forty (340) residential housing units, two hundred seventy two (272) market units and sixty eight (68) affordable units. The actual application that is submitted to the Mansfield Planning Board may consist of a product mix of non-age restricted dwellings including, single family and multi-family market units, as well as the required affordable units and will comply with the provisions of this ordinance. The actual approved number of units will be subject to planning board review and approval based on the application conforming to the current Township checklist and application forms and will be designed in accordance with the Residential Site Improvement Standards (RSIS).

 - (2) The application for, and requested approval of, the second phase of the development of the Tract will be determined by the number of affordable housing units required for the Township to comply with its constitutional obligation to provide a realistic opportunity for affordable housing in Round Four commencing on July 1, 2025. At such time as the Township's Round Four affordable housing

obligation is determined either by way of court order, stipulation, or settlement with affordable housing advocates, including the Fair Share Housing Center, but in no event, later than July 1, 2025, the maximum number of units for phase 2 of the project will be finalized, in accordance with the following provisions. In the event that the Township's Round Four affordable housing obligation will not be determined by way of court order, stipulation, or settlement by July 1, 2025, the maximum number of units for phase 2 of the project shall be reasonably determined and finalized by the Township planner by July 1, 2025.

- (3) The Township's Round Four affordable housing obligations shall foremost be satisfied with the construction of units from phase 2 of the Property. In other words, if the Township's Round Four obligations can be fully satisfied by the remaining density available for the Property, the Township shall not consider other sites for the development of affordable housing units. Developer shall be entitled to develop 100 total units in phase 2 (80 market units and 20 affordable units) for every 20 units of affordable housing required to be provided by the Township in Round Four. For example, (i) if the Township is required to provide 40 units of affordable housing in Round Four, Developer shall be entitled to develop 200 total units in phase 2 (160 market units and 40 affordable units); (ii) if the Township is required to provide 60 units of affordable housing in Round Four, Developer shall be entitled to develop 300 total units, (240 market units and 60 affordable units) in phase 2; (iii) if the Township is required to provide 80 units of affordable housing in Round Four, Developer shall be entitled to develop 400 total units in phase 2, (320 market units and 80 affordable units), (iv) and so on, up to an anticipated maximum total of 452 total units (362 market units and 90 affordable units) in phase 2, depending on applicable site constraints.
- (4) Notwithstanding anything herein to the contrary, if the Township is required to provide 19 units or less (or none) of affordable housing in Round Four, developer shall be entitled to develop 80 market units in phase 2, plus the required number of affordable units, if any. Developer may construct additional units on the Property up to the maximum amount permitted herein pursuant to sub-section (3) above.
- (5) Any future rounds to determine the Township's affordable housing obligations (*i.e.*, any rounds subsequent to Round Four) shall foremost be satisfied with any unused density up the maximum of four units per gross acre as set forth in Section 86-39.A.

D. Open Space. A minimum of 25% of the Tract shall be dedicated as open space per N.J.S.A. 40:55D-43. This open space may include freshwater wetlands and required

buffer areas outside the developed portions of the Tract, but shall not include stormwater management facilities and other green spaces within the developed portions of the Tract, such as community lawns and landscaped areas, parking islands, roadside buffering.

- E. The Tract shall be permitted to be subdivided into one or more lots, and one or more buildings or uses shall be permitted on a single lot. The Tract shall be constructed in two or more phases, as set forth in sub-section C, above.
- F. The regulations set forth in this Article shall supersede all other provisions of the Township Zoning Ordinance, unless otherwise stipulated herein. The provisions of Section 65.4(F) “Conflict with Other Regulations” shall not apply to this Tract.
- G. The land use administration and procedural regulations of the Township of Mansfield Code shall remain in full force and in effect.
- H. Nothing in this Article shall contravene the statutory requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (the “MLUL”).

86-38 Use Regulations

A. Definitions:

- (1) “Dwelling Unit” means a unit intended for residential use.
- (2) “Age-Restricted Housing” means housing that is designed to meet the needs of, and is exclusively for, an age-restricted segment of the population such that at least eighty percent (80%) of the units are occupied by one person that is 55 years or older in accordance with the “Housing for Older Persons Act of 1995 (HOPA)” 42 U.S.C. Section 3601 et seq.; or the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. §§ 3607.
- (3) “Multi-Family Building” means a building designed for three or more Dwelling Units within one building. Acceptable unit types from a multi-family building include, but are not limited to, stacked single or multi-story units and Townhouse Units on a single tax lot
- (4) “Renewable Energy Facility” means a facility that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy. [N.J.S.A. 40:55D-66.11]

(5) "Townhouse" means a building that has no more than ten (10) Dwelling Units erected in a row as a single building, each being separate from the adjoining unit or units by an approved masonry, party or partition wall or walls, thus creating distinct and non-communicating Dwelling Units, such units intended for separate ownership or rental. Each Townhouse may be on its own individual lot. Townhouses may be stacked.

(6) "Public Street" shall mean a street or road constructed to municipal standards pursuant to RSIS that is dedicated to and accepted by the Township as a public street. "Private street shall mean any road or street not dedicated to and accepted by the Township as a public street.

B. Permitted Principal Uses.

- (1) Non age-restricted, single-family detached dwelling units, townhouses, and multi-family buildings.
- (2) Renewable energy facilities.
- (3) Open space.
- (4) Farming per Section 65-89.
- (5) Central sewage conveyance facilities.
- (6) Central water storage, pumping, treatment, and conveyance facilities.

C. Permitted accessory uses and structures.

- (1) Clubhouses, Community Swimming Pools (specifically excluding the requirements of Section 65-91), and Community Buildings ancillary to a principal use.
- (2) Recreational Facilities ancillary to a principal use (indoor and/or outdoor).
- (3) Patios, Decks, Sheds, Terraces, or Balconies ancillary to a principal use.
- (4) Parking Facilities and Garages, either surface (open air) or enclosed.
- (5) Management Offices ancillary to a principal use (indoor and/or outdoor)

D. Conditional Uses: None.

E. Prohibited Uses. All uses prohibited under Section 65-88 are also prohibited in the R-6 Residence District.

86-39 Area and Bulk Requirements

A. Tract density for Dwelling Units: Four (4) Dwelling Units per Gross Acre. A maximum of 792 homes will be constructed on the Tract, subject to applicable site constraints

B. Bulk Requirements for Single-Family Detached Dwelling Units

Requirement	Dimension
Lot	
Min. Lot Area (Square Feet)	6,000
Min. Lot Frontage at Street ROW Line (Feet)	30
Min. Lot Width at Front Yard Setback Line (Feet)	50
Min. Lot Coverage (Percentage)	60
Principal Building	
Min. Front Yard Setback (Feet)	20
Min. Rear Yard Setback, w/o Decks/Patios (Feet)	20
Min. One Side Yard Setback (Feet)	5
Min. Combined Side Yard Setback (Feet)	15
Max. Height (Stories / Feet)	2.5 / 35
Accessory Building & Deck/Patio	
Min. Side & Rear Yard Setback (Feet)	5'
Max. Height (Stories / Feet)	1 / 15

C. Bulk Requirements for Townhouses:

Requirement	Dimension
Lot	
Min. Lot Area (Square Feet)	1,800
Min. Lot Frontage at Street ROW Line (Feet)	22'
Min. Lot Width at Front Yard Setback Line (Feet)	22'
Principal Building	
Min. Front Yard Setback, (Feet)	20
Min. Rear Yard Setback (Feet)	15
Min. Side Yard Setback (Feet)	0
Min. Building to Building Setback (Feet)	25
Min. Deck Side Yard Setback (Feet)	0
Min. Deck Rear Yard Setback (Feet)	7
Max. Height (Stories / Feet)	3 / 35
Max. Dwellings per Building	10

Accessory Building & Deck/Patio	
Min. Side Yard Setback (Feet)	0
Min. Rear Yard Setback (Feet)	7
Max. Height (Stories / Feet)	1 / 16

D. Bulk Requirements for Multi-Family Buildings:

Requirement	Dimension
Min. Principal Bldg to Principal Bldg Setback (Feet)	40
Min. Accessory Bldg Side & Rear Yard Setback (Feet)	5
Max. Principal Building Height (Stories / Feet)	3.5 / 45
Max. Accessory Bldg Height (Stories / Feet)	1 / 15
Max. Lot Coverage (Percentage)	90
Max, Dwellings per Building	36

E. Bulk Requirements for Renewable Energy Facilities; Open Space; Farming; Central Sewage Facilities; and Central Water Storage, Pumping, Treatment, and Conveyance Facilities:

Requirement	Dimension
Max. Principal Building Height (Stories / Feet)	1 / 18'
Max. Accessory Bldg Height (Stories / Feet)	1 / 18
Max. Lot Coverage (Percentage)	90

86-40 General Regulations

A. Landscaping

- (1) All areas that do not contain buildings, structures, or paving shall be landscaped with plantings and/or lawn.
- (2) All plant materials shall be in accordance with “The American Standards for Nursery Stock”.

B. Refuse and Recycling. All refuse and recycling storage shall be fully enclosed and screened within the building or, if outside, within a refuse enclosure that is a minimum of 6 feet high.

C. Signs.

- (1) Roadside Signs.
 - (a) Two (2) roadside entry signs (one on each side of the entry road) shall be permitted at each access point along each road.

- (b) The maximum sign area for any roadside entry sign shall be 60 square feet.
- (c) The maximum sign height for any roadside entry shall be 8 feet.

(2) Building Signs.

- (a) Multi-Family Buildings shall be limited to one monument sign per Multi-Family Building, having a maximum sign area of 60 square feet and a maximum height of 6 feet, and one wall-mounted building address sign measuring no more than 6 square feet in area per elevation fronting a street or parking area. In addition to the aforesaid monument sign, building signs for unit identification are permitted.

(3) Directory Signs.

- (a) Directory ground signs shall be permitted within the interior of the Tract, to identify or distinguish different neighborhoods or clusters of building types within the development.
- (b) Directory signs shall not exceed 16 square feet in area.
- (c) Directory signs shall not exceed 8 feet in height.

(4) Directional (Wayfinding) Signs.

- (a) Directional ground signs shall be permitted within the interior of the Tract, to facilitate wayfinding to amenity areas such as clubhouses or neighborhoods or clusters of building types within the development.
- (b) Directional signs shall not exceed 16 square feet in area.
- (c) Directional signs shall not exceed eight (8) feet in height.

(5) All signs within the Tract shall be designed in a cohesive manner.

(6) All signs on Townhouse lots shall be subject to Section 69-112.

C. Homeowners Association: A master homeowners' association (HOA) shall be established for the purposes of owning and assuming maintenance responsibilities for the common open space and common property designed within the development, including all stormwater control and maintenance required under all applicable regulations of the New Jersey Department of Environmental Protection and Township

Ordinances. All HOA documents shall be submitted for review and approval by the Township Attorney and the New Jersey Department of Community Affairs.

- (a) The project boulevard and streets within the single family section of the Tract shall be public roadways owned and maintained by the Township. The HOA shall own and be responsible for the maintenance, repair and reconstruction of all private streets, roads, drives, alleys and other such paths of travel in and about said community, including the responsibility for snow removal therefrom and lighting thereof, including the townhome section of the Tract and the affordable housing apartments.
- (c) The township shall provide the residents of the community in the single family section fronting on public streets with trash and garbage pickup and disposal on at least a weekly basis. The HOA shall provide trash and garbage pickup and disposal on at least a weekly basis with the townhouse section of the Tract, including the affordable housing apartments, fronting on private streets. The Township and the HOA will enter into an agreement to comply with the provisions of the Municipal Services Act, pursuant to N.J.S.A. 40:66-1.4.
- D. Mechanical Equipment. Air conditioning units, HVAC systems, exhaust pipes or stacks, electric and gas utility meters, and related mechanical equipment and elevator housing shall be screened to minimize visual impact.

86-41 Affordable Housing Requirements

- A. Affordable housing will be provided as set forth in Section 86-37 above.
- B. The Affordable Units shall be deed restricted in accordance with the provisions of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (“UHAC”), which shall govern the number of bedrooms and rents for the Affordable Units.
- C. Phasing for construction of the Affordable Units shall be in accordance with the New Jersey Council on Affordable Housing (“COAH”) phasing schedule established by N.J.A.C. 5:93-5.6(d).
- D. All Affordable Units shall comply with the regulations of UHAC and/or COAH, as may be applicable, including, but not limited to those concerning (a) income qualification, (b) controls on affordability for a period of thirty (30) years, (c) deed restrictions, (d) bedroom distribution, (e) low/moderate income split, (f) affirmative marketing, and (g) handicap accessibility.
- E. All Affordable Units shall be subject to affordability controls for a period of at least thirty (30) years following the initial certificate of occupancy for the affordable unit and upon the conclusion of that thirty (30) year period the municipality’s decision as to when and whether to extinguish affordability controls shall be governed by the applicable UHAC provisions.

- F. Townhouses shall be permitted to be arranged in a stacked or interlocking fashion, whereby an Affordable Unit shall be permitted to be located vertically above or vertically below a market-rate unit.
- G. In the event that the Affordable Units are in a common ownership interest community with non-affordable units, the common expenses to be borne by all units may be based upon relative percentage of interest ownership in the common elements.

86-42 General Development Plan

A developer proposing development of property within the R-6 Residence Zoning District may apply to the Mansfield Planning Board for a General Development Plan approval as a planned development in accordance with N.J.S.A. 40:55D-45 through N.J.S.A. 40:55D-45.8. Prior to any approval of a planned development, the planning board shall make the findings required by N.J.S.A. 40:55D-45. The general development plan shall remain in full force and effect for a period not to exceed fifteen (15) years from the date upon which the developer receives final approval of the first section of the planned development and shall be terminated in accordance with N.J.S.A. 40:55D-45.8. Any general development plan approval shall require the development to be developed in two or more phases and shall specify the maximum number of units in phase 1 and phase 2 as set forth in Section 86-37 above. Unless waived by the planning board, the application for general development plan approval shall include the permitted studies and plans as set forth in N.J.S.A. 40:55D-45.2 (a) – (l).

REPEALER, SEVERABILITY AND EFFECTIVE DATE

- A. Any and all Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency
- B. If any section, 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 and the remainder of this ordinance shall be deemed valid and effective.
- C. This Ordinance shall take effect immediately upon final passage and publication according to law.

CERTIFICATION

I, LINDA SEMUS, RMC, CMR, Municipal Clerk of the Township of Mansfield, County of Burlington, State of New Jersey, do hereby certify the foregoing to be a true and correct copy of an Ordinance which was introduced by the Mansfield Township Committee, County of Burlington, State of New Jersey at their regular meeting held on March 17, 2021 at 7:00PM with a Second Reading, public hearing and final adoption to be held on April 1, 2021 at 7:00PM.

LINDA SEMUS, RMC, CMR
Municipal Clerk