

**BOROUGH OF DEMAREST
COUNTY OF BERGEN**

ORDINANCE #1174-26

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 175 “ZONING”,
ARTICLE IV “RESIDENCE DISTRICTS” TO ESTABLISH NEW SECTION 175-12.2
ENTITLED “RESIDENTIAL MULTIFAMILY-3 DISTRICT” AND MODIFYING THE
ZONING MAP TO REFLECT THE NEW DISTRICT**

WHEREAS, the Demarest Planning Board adopted the 2025 Housing Element & Fair Share Plan for the Fourth Round on June 5, 2025, which was duly endorsed by the Council; and

WHEREAS, 232 County Development, LLC filed a challenge to the Borough’s 2025 Housing Element and Fair Share Plan on August 28, 2025; and

WHEREAS, Mediation was held between the Borough and 232 County Development, LLC as part of the Affordable Housing Dispute Resolution Program, which resulted in a Mediation Agreement dated December 29, 2025; and

WHEREAS, pursuant to the Mediation Agreement, the Borough agreed to rezone 232 County Road (Block 63, Lot 5) to permit inclusionary residential development; and

WHEREAS, the Planning Board adopted the Amended 2025 Housing Element & Fair Share Plan on February 4, 2026, which includes the 232 County Development site as an inclusionary mechanism to address the Fourth Round Obligation; and

WHEREAS, the Amended 2025 Housing Element & Fair Share Plan makes a recommendation to establish a new district permitting inclusionary residential development on Block 63, Lot 5 to address the Borough’s constitutional obligation to provide affordable housing and comply with the Borough’s Mediation Agreement; and

WHEREAS, the Borough wishes to implement the recommendations provided in the Amended 2025 Housing Element & Fair Share Plan and as required by the Mediation Agreement; and

WHEREAS, the Mayor and Borough Council have reviewed the Amended 2025 Housing Element & Fair Share Plan and agree Chapter 175 of the Borough’s Code should be amended to implement the recommendations of the Amended 2025 Housing Element & Fair Share Plan and requirements of the Borough’s Mediation Agreement to address the Borough’s affordable housing obligation.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Demarest, County of Bergen, State of New Jersey, that the following amendments be made to the Municipal Code of the Borough of Demarest:

SECTION 1. Amend Chapter 175 “Zoning”, Article II “Establishment of Districts”, subsection 2 “Districts Enumerated” be amended and supplemented to add the following underlined text alphabetically:

R-MF-3 Residential Multifamily-3 District

SECTION 2. Amend Chapter 175 “Zoning”, Article II “Establishment of Districts”, subsection 3 “Zoning Map” be amended and supplemented to add the following underlined text and remove text in ~~strikeout~~:

The Zoning Map of the Borough of Demarest prepared and submitted by Colliers Engineering & Design~~Maser Consulting~~, dated January 23, 2026~~May 26, 2020~~, and appended hereto and incorporated herein by reference, be and is hereby approved and adopted, supplanting and replacing the Zoning Map, dated May 2020, prepared by Maser Consulting of 1984, or the latest version adopted, subject to statutory review by the Planning Board of the Borough of Demarest.

SECTION 3. Amend Chapter 175 “Zoning”, Article IV “Residence Districts” to establish a new subsection 12.2 entitled “Residential Multifamily-3 District”, which shall read as follows:

§175-12.2 Residential Multifamily-3 District.

A. Permitted principal uses.

- (1) Townhomes.

B. Permitted accessory uses.

- (1) Off-street parking.
- (2) Fences and walls.
- (3) Landscaping and buffering.

C. Bulk standards.

- (1) Minimum lot area: 70,000 square feet
- (2) Minimum lot frontage: 500 feet
- (3) Minimum Front Yard Setback from County Road: 110 feet
- (4) Minimum Side Yard Setback abutting Hardenburgh Avenue: 40 feet
- (5) Minimum Side Yard Setback Abutting a Lot: 35 feet

- (6) Minimum Rear Yard Setback: 35 feet
- (7) Minimum Setback to Attached Decks and/or Patios: 30 feet
- (8) Minimum Setback to Mechanical Equipment: 35 feet
- (9) Maximum Building Coverage: 18%
- (10) Maximum Improved Lot Coverage: 32%
- (11) Maximum Building Height (Per Unit and As Measured to the Mid-Point of the Roof), which is defined as the distance between the finished garage floor elevation and midpoint of the roof between the highest ridge and eave: 35 feet and 3 stories
- (12) Maximum Number of Units: 7 units
- (13) Maximum Number of Bedrooms In Any Unit: 3 bedrooms
- (14) No improvements, other than utilities landscaping, shall be installed within 100 feet of the County Road right-of-way. Landscaping in this area shall be capped at an amount not to result in the development of the Property being classified as a Major Development under the New Jersey Department of Environmental Protection Storm Water Management Regulations.

D. Architectural Standards.

- (1) The project shall be designed with two buildings, one containing four units and one containing three units. The buildings shall be designed in a manner to blend with the surrounding single-family homes.
- (2) Buildings shall be constructed of brick, stone, cast stone, hardy plank siding, or other high-quality materials.
- (3) The architectural design of the front façade(s) shall be continued around all visibly exposed sides of a building. All sides of a building shall be consistent in design, including style, materials, and details.
- (4) Building offsets (projections and recesses) shall be provided every 35 feet to break up the mass of the buildings. Offsets shall have a minimum depth of one foot.
- (5) Gable and hipped roofs shall be used to the greatest extent possible. Both gable and hipped roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.

E. Parking.

- (1) Parking shall be provided as follows:

- (a) A minimum of 1.8 spaces per one-bedroom unit (inclusive of guest parking)
 - (b) A minimum of 2.3 spaces per two-bedroom unit (inclusive of guest parking)
 - (c) A minimum of 2.4 spaces per three-bedroom unit (inclusive of guest parking)
- (2) Where provided, garages shall be used to park cars and shall not be converted to living space or used as storage units.

F. Lighting.

- (1) A lighting plan prepared by a qualified individual shall be provided with site plan applications.
- (2) All parking areas and drive aisles (excluding driveways exclusively servicing a unit) shall have an average illumination of 0.5 footcandles.
- (3) No lighting at the property line shall exceed zero footcandles, with the exception of curb cuts along the right-of-way and areas within 10 feet of said curb cuts.
- (4) Light fixtures shall be full cutoff with a mounting height not exceed 15 feet.

G. Landscaping.

- (1) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, screen parking areas, and mitigate adverse visual impacts.
- (2) Landscape plans shall be prepared by a New Jersey licensed landscape architect. A plant list shall be provided, listing quantity, plant key, botanical name, common name, installation size, and mature size.
- (3) Shade trees shall be provided within ten feet of public rights-of-way at a rate of one per 60 linear feet of frontage. Shade trees shall be installed with a minimum caliper of three inches.
- (4) Parking areas and driveways shall be landscaped with a combination of shade trees and shrubs. Shade trees shall have a minimum caliper of three inches and shrubs shall be a minimum of 30 inches tall at installation.
- (5) Landscape buffer.
 - (a) A landscaped buffer shall be provided within 25 feet of the side and rear property lines coinciding with adjacent residential uses. Within this buffer no existing tree shall be cut or removed unless the tree is dead, dying, or diseased or if the removal of the tree is necessary for the installation of utilities.

(b) Buffer plantings shall consist of a combination of shade trees, evergreen trees, ornamental trees, and shrubs to provide a natural looking buffer, while providing a visual screen.

(c) Buffer plantings shall include the following:

[1] One shade tree shall be provided for every 50 feet of linear feet of buffer.

[2] One evergreen tree shall be provided for every 20 feet of linear feet of buffer.

[3] One ornamental tree for every 50 feet of linear feet of buffer.

[4] Ten shrubs for every 50 linear feet of buffer.

[5] Existing shade and evergreen trees within the buffer may be counted in fulfilling the required buffer planting.

(d) Buffer plants shall be the following sizes at the time of planting:

[1] Shade trees shall have a minimum caliper of three inches and minimum height of 12 feet, balled and burlapped.

[2] Evergreen trees shall be planted at a minimum height of six feet, balled and burlapped.

[3] Ornamental trees shall have a minimum caliper of two inches.

[4] Shrubs shall be planted at a minimum height of two feet. However, at least 50% of shrubs shall be more than two feet at installation. Additionally, at least 50% of shrubs shall be evergreen.

(e) No more than 25% of the plantings shall be of the same species and/or variety of plant.

(f) Buffer plantings shall be arranged in a natural staggered pattern and shall not be lined up in straight, single rows.

(g) All buffer plants shall be deer resistant.

(6) Foundation plantings shall be provided to soften the mass of the buildings. Said plants shall provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed development.

(7) All applications for development shall comply with Chapter 163, "Trees" as limited by C.(14) above.

H. Trash.

(1) Trash and recycling shall be stored inside each individual garage space or unit.

I. Affordable housing.

- (1) Block 63, Lot 5 shall provide one affordable non-restricted unit in accordance with the Mediation Agreement.
- (2) Pursuant to the Mediation Agreement, the developer shall provide a subsidy payment for a fractional unit of 0.4 pursuant to Section §175-51.
- (3) The affordable units shall meet the standards in Section §175-46, Affordable housing regulations, and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26, et seq) in effect at the time of application.
- (4) The developer/HOA shall be responsible for retaining a qualified administrative agent, who shall be the Borough's administrative agent, or a certified entity approved by the Council.
- (5) All necessary steps shall be taken to market to affordable unit provided creditworthy pursuant to applicable law.

J. Site improvement standards.

- (1) Streets, curbs, gutters, sidewalks (which at the discretion of the developer may be waived if they are not on a public street), pavements, street signs, parking lots, the water supply, fire hydrants, the sanitary sewer system, and stormwater management shall be designed pursuant to the Residential Site Improvement Standards (N.J.A.C. 5:21).

K. Off-site improvements.

- (1) Off-tract improvements are required whenever an application for development requires the construction of off-tract improvements that are clearly, directly, and substantially related to or necessitated by the proposed development. The Planning Board, as the case may be, may require as a condition of final site plan or subdivision approval that the applicant provide for such off-tract improvements if such off-tract improvements are necessitated by the townhouse development. Off-tract improvements shall include water, sanitary sewer, drainage, and street improvements.
- (2) Determination of cost. When off-tract improvements are required, the Borough Engineer shall calculate the cost of such improvements in accordance with the procedures for determining performance guaranty amounts in N.J.S.A. 40:55D-53.4. Such costs may include, but not be limited to, any or all costs of planning, surveying, permit acquisition, design, specification, bidding, construction, construction management, inspection, legal, traffic control and other common and necessary costs of the construction of improvements. The Borough Engineer shall also determine the percentage of off-tract improvements that are attributable to the applicant's development proposal and shall expeditiously report his findings to the Planning Board and the applicant.
- (3) Improvements required solely for the application's development. Where the need for an off-tract improvement is necessitated by the proposed development and no other property

owners receive a special (i.e., more than incidental) benefit thereby, or where no planned capital improvement by a governmental entity is contemplated, or the improvement is required to meet the minimum standard of the approving authority, the applicant shall be solely responsible for the cost and installation of the required off-tract improvements. The applicant shall elect to either install the off-tract improvements or pay the municipality for the cost of the installation of the required off-tract improvements.

- (4) Performance guaranty. If the applicant elects to construct the improvements, the applicant shall be required to provide, as a condition of final approval, a performance guaranty for the off-tract improvements in accordance with N.J.S.A. 40:55D-53 and K(2) above.
- (5) Certification of costs. Once the required off-tract improvements are installed and the performance bond released, the developer shall provide a certification to the Borough Engineer of the actual costs of the installation. The Borough Engineer shall review the certification of costs and shall either accept them, reject them, or conditionally accept them. In the review of costs, the Borough Engineer shall have the right to receive copies of invoices from the developer sufficient to substantiate the certification. Failure of the developer to provide such invoices within six months of the Borough Engineer's request shall constitute forfeiture of the right of future reimbursement for improvements that benefit other.
- (6) Time limit for reimbursement. Notwithstanding any other provisions to the contrary, no reimbursement for the construction of off-tract improvements providing excess capacity shall be made after 10 years has elapsed from the date of the acceptance of the certification of costs by the Borough Engineer.

L. General.

- (1) All applications within the Residential Multifamily-3 District shall include a statement from the developer or its professional that the proposed development is in compliance with § 153-4H of the Borough of Demarest Code.
- (2) All applications within the Residential Multifamily-3 District shall comply with § 153-4, Performance standards.
- (3) Site plans submitted as part of any application within the Residential Multifamily-3 District shall be prepared in accordance with § 153-5.

SECTION 4. Zoning Map. The Official Zoning Map shall be amended to rezone Block 63, Lot 5 from the R-B Single-Family Residence District to the R-MF-3 Residential Multifamily-3 District.

SECTION 5. Repealer. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

SECTION 6. Savings and Construction. This ordinance shall be construed consistent with the purpose stated in Section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible.

This ordinance repeals provisions of the Demarest Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Demarest Code.

SECTION 7. Codification. This ordinance shall be codified as amendments to the chapters set forth herein.

SECTION 8. Effective Date. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Attest:

Approved:

Municipal Clerk

Mayor Brian Bernstein

Introduced: February 25, 2026

Adopted: