



Borough of Chatham

BOROUGH HALL

54 FAIRMOUNT AVENUE • CHATHAM • NEW JERSEY 07928

ORDINANCE #16-11

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING VARIOUS SECTIONS OF CHAPTER 165 OF THE BOROUGH CODE TO PROVIDE A MINIMUM AFFORDABLE HOUSING SET-ASIDE IN CERTAIN ZONE DISTRICTS

WHEREAS, in accordance with the Supreme Court’s decision in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”), the Borough of Chatham filed a Declaratory Judgment action in Morris County Superior Court seeking a Final Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan (the “Plan”), In the Matter of the Borough of Chatham Affordable Housing Compliance, Docket No. MRS-L-1906-15; and

WHEREAS, on September 7, 2016, Judge Hansbury conducted a Fairness and Compliance Hearing wherein the Court approved the Borough’s Plan and granted the Borough a Final Judgment of Compliance and Repose; and

WHEREAS, the Borough Planning Board has adopted the Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which has been endorsed by the Mayor and Borough Council; and

WHEREAS, this Ordinance implements and incorporates the Borough’s Plan; and

WHEREAS, in accordance with the Plan and the New Jersey Fair Housing Act of 1985 and current Council on Affordable Housing regulations, the Mayor and Borough Council wish to amend certain sections of the Chapter 165 of the Land Development Regulations of the Borough Code related to the M-1 and M-3 Districts, Gateway Overlay District, Affordable Housing Districts (AFD-1, AFD-1.1, AFD-2, AFD-3, AFD-4) Districts, and B-2 and B-4 Districts to require an affordable housing set-aside; and

WHEREAS, the Mayor and Borough Council wish to further update, clarify and improve the definitions section of Chapter 165 consistent with current Council on Affordable Housing regulations.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Chatham, County of Morris, and State of New Jersey as follows:

Section 1. Section 165-10 of the Borough Code entitled “Word Usage and Definitions”, be and hereby is amended as follows:

[New language is underlined and shall replace existing definitions; deleted language is struck through].

DEVELOPABLE AREA

~~The total land area of a tract which is not environmentally sensitive as defined in N.J.A.C. 5:92-8.2(b)3 or otherwise permitted to be exempted as a potential site for low or moderate income housing under Subchapter 9 of the COAH rules.~~

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and

the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50 percent (50%) or less of the median household income.

LOWER-INCOME HOUSEHOLD

~~A household meeting income eligibility standards of the Federal Department of Housing and Urban Development or other recognized standards for either low or moderate income households within the housing region defined in N.J.A.C. 5:92-1 of which Chatham is a part.~~

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50 percent (50%) but less than 80 percent (80%) of the median household income.

REGION

~~When used in regard to affordable housing, the region that include Chatham Borough established by the State of New Jersey Council on Affordable Housing as described in N.J.A.C. 5:92-1, as amended and revised.~~

Section 2. Subsection B(5) of Section 165-28.1 of the Borough Code entitled, “Conditional Uses in the M-1 District”, be and hereby is repealed and replaced as follows:

- (5) The development shall comply with the affordable housing set-aside requirement set forth at § 69-4 of this Code.

Section 3. Subsection B(4) of Section 165-29.1 of the Borough Code entitled “Conditional Uses in the M-3 District”, be and hereby is repealed and replaced as follows:

- (4) The development shall comply with the affordable housing set-aside requirement set forth at § 69-4 of this Code.

Section 4. Subsection C of Section 165-30 of the Borough Code entitled, “Gateway Overlay District Regulations”, be and hereby is repealed and replaced as follows:

§ 165-30C Affordable housing requirement.

Any residential development shall comply with the affordable housing set-aside requirement set forth at § 69-4 of this Code.

Section 5. Subsection A of Section 165-45 of the Borough Code, entitled “Affordable Housing Requirements for Inclusionary Developments”, be and hereby is repealed and replaced as follows:

- A. Any residential development shall comply with the affordable housing set-aside requirement set forth at § 69-4 of this Code.

Section 6. Section 165-17 of the Borough Code entitled, “B-2 Regional Business District”, be and hereby is amended as follows:

[Add New].

§ 165-17E Affordable Housing Requirement.

- E. Any residential development shall comply with the affordable housing set-aside requirement set forth at § 69-4 of this Code.

Section 7. Section 165-19 of the Borough Code entitled, “B-4 Community Business District”, be and hereby is amended as follows:

[Add new].

§ 165-19E Affordable Housing Requirement.

E. Any residential development shall comply with the affordable housing set-aside requirement set forth at § 69-4 of this Code.

Section 8. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 9. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

Section 10. This Ordinance shall take effect upon passage and publication in accordance with applicable law.

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Introduced: September 21, 2016

Public Hearing: October 24, 2016

BOROUGH OF CHATHAM

MAYOR BRUCE A. HARRIS

Date signed: October 24, 2016

Attest:

Robin R. Kline, MAS, RMC, CMR
BOROUGH CLERK

CERTIFICATION

I, Robin R. Kline, Municipal Clerk of the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of the Ordinance adopted by the Borough Council at its meeting held on October 24, 2016.

Robin R. Kline, MAS, RMC, CMR