BOROUGH OF CHATHAM
MORRIS COUNTY

ORDINANCE #26-08
AN ORDINANCE OF THE BOROUGH OF CHATHAM TO AMEND CHAPTER 165 "LAND DEVELOPMENT," TO ADD THE INCLUSIONARY MULTIFAMILY AND COMMUNITY BUSINESS DISTRICT

WHEREAS, in consultation with the Borough's legal and planning professionals, the Borough Council has determined that it is necessary and appropriate to amend Chapter 165 of the Code of the Borough of Chatham, "Land Development Regulations," to add a new zoning district to be known as the B-4 (AH) Inclusionary Multifamily and Community Business District; and,

WHEREAS, this Ordinance is further intended to comply with the terms of a settlement agreement between 23 S. Passaic Owner, LLC and 33 S. Passaic Owner, LLC, their respective successors or affiliate companies and the Borough of Chatham.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Chatham, in the County of Morris and State of New Jersey, that Chapter 165 of the Code of the Borough of Chatham is hereby amended and supplemented as follows:

Section 1:
A new Section 165-35.3, entitled "B-4 (AH) Inclusionary Multifamily and Community Business District," shall be added to Chapter 165 of the Code of the Borough of Chatham, "Land Development Regulations," and shall read as follows:

§ 165-35.3 **B-4 (AH) Inclusionary Multifamily and Community Business District.**

A. The purpose of this Ordinance is as follows:

1. The B-4 (AH) Inclusionary Multifamily and Community Business District (the "B-4 (AH) District") is intended to provide inclusionary, non-age restricted housing to aid the Borough in meeting its affordable housing obligations under New Jersey law. Additionally, the B-4 (AH) District may provide in a limited space an opportunity for retail trade, office or personal services on the ground level of any development, in order to provide residents and customers from the local community with goods and services for their own personal and household use.
2. The B-4(AH) District is intended to be consistent with the terms of a settlement agreement to resolve pending litigation between 23 S. Passaic Owner LLC, 33 S. Passaic Owner LLC and the Borough of Chatham. This settlement agreement requires that the subject area will include a 15% set aside of all residential units, which will be deed restricted affordable to very-low-, low- and moderate-income households.
3. This Ordinance shall re-zone Block 121, Lots 12 and 13 on the tax map of the Borough of Chatham to be within the B-4 (AH) District, consistent with the aforementioned settlement agreement.

B. Principal permitted uses. The following principal uses shall be permitted in the B-4 (AH) District:

1. Multifamily residential development.
2. Mixed use residential development with any permitted use listed herein.
3. Retail trade.
4. Co-working space.
5. Medical office.
6. Professional office.
7. Personal service.

8. Retail service.
9. Eating and drinking establishments, sale of food and beverages.
10. Art galleries.

C. Accessory uses permitted. The following accessory uses and structures shall be permitted in the B-4 (AH) District:
   1. Private parking, including structured parking.
   2. Private customer and employee parking and parking for residents of the adjacent Block 121, Lot 10.
   3. Signs and business signs.
   4. Awnings, which shall not be subject to front yard setbacks, and attached canopies.
   5. Loading. This Ordinance authorizes the use of the dedicated portion of adjacent Block 121, Lot 10 for loading specifically associated with Block 121, Lots 12 and 13.
   6. Rooftop amenity space, including roof top deck, grill stations, seating, pergolas, and fire pits.

D. Area, yard and building requirements for the B-4 (AH) District:

   1. The provisions specified in this Ordinance shall supersede any area, yard and building requirements of §165-22, §165-24, and §165-25.
   2. Maximum Units: 29 residential units plus one unit for the superintendent's occupancy, in the event there is no commercial space, for a maximum of 30 units if a superintendent's unit is included. The inclusion of a Superintendent unit will not require an additional affordable housing contribution, consistent with New Jersey Department of Community Affairs treatment of such unit designation.
   3. If the building contains ground floor commercial space, the Borough shall not require more than 1,500 square feet, but a larger space shall be permitted at the applicant's discretion.
   4. Building height: Three (3) stories and 42 feet, measured to the mid-point of pitched roof. The building height shall be measured from the grade at the mid-point of the property line on South Passaic Avenue. Measurement of building height shall exclude the height of rooftop mechanical equipment, parapets, rooftop appurtenances, elevator shafts, rooftop elevator lobby, stair bulkheads, and/or rooftop pergola and/or rooftop open-air space. The building shall have the appearance of a three-story building, and mezzanines shall not have full size exterior facing windows or patio doors along the pitched exterior of the roof system facing South Passaic Avenue, Bowers Lane and Post Office Plaza, above the third floor. Pursuant to the International Building Code (the "IBC"), any "mezzanines" (e.g. space consisting of no more than 1/3 of the square footage of the living space below) and an elevator lobby consisting of 100 square feet, shall not be considered as a story. Decorative windows, including dormers, may be accepted within limited portions of the pitched roof at the discretion of the Borough Planning Board, in keeping with the architectural style of the surrounding neighborhoods.
   5. Parking: 1.5 spaces per unit inclusive of any electrical vehicle (EV) credit. No on-site parking requirement for commercial uses.
   6. Maximum Lot Coverage: 100%.
   7. Maximum Building Coverage: 100%
   8. Minimum Yard Buffer: 0 feet.
   9. Minimum Front Yard Setback: none.
   10. Minimum Rear Yard Setback: none.
   11. Minimum Side Yard Setback: none.
   12. Minimum Garage Aisle Width: 24 feet.
   13. Maximum Driveway Width: 24 feet.
   14. Standard Parking Stall Width: 9 feet.
   15. Standard Parking Stall Length: 18 feet.
   16. Maximum Compact Parking Stalls: 10%.
   17. Compact Parking Stall Width: 8 feet.
   18. Compact Parking Stall Length: 16 feet.
   19. Minimum Bicycle Parking (Garage): per §165-25(J).
   20. Minimum loading space per building: 1

21. Loading space width: 12 feet.
22. Loading space length: 40 feet.
23. Signage: Per Article XXIII of Chapter 165 of the Borough Code (§ 165-95 through -109).

E. Supplemental Zoning and Design Standards for the B-4 (AH) District:
   1. Mezzanines (i.e. space consisting of no more than one-third of the square footage of the living space below) shall be permitted in market rate units, but there shall be no exterior facing windows or patio doors along the pitched exterior of the roof system facing South Passaic Avenue, Bowers Lane and Post Office Plaza, above the third floor. Decorative windows, including dormers, may be permitted within limited portions of the pitched roof at the discretion of the Borough Planning Board, in keeping with the architectural style of the surrounding neighborhoods.
   2. Bay windows may cantilever up to two (2) feet over the right of way line above the first floor.
   3. Rooftop open space and second floor open space may be utilized for an amenity deck and private outdoor space for residential units.
   4. Streetscape Improvements: The proposed development shall include a minimum of 2,000 square feet, but no more than 2,300 square feet, of streetscape enhancement and a parklet between the existing Post Office Plaza parking lot and the proposed building. The Enhancement area shall include portions of the Post Office Plaza site adjacent to the subject property and an easement shall be granted to the owners to allow these improvements to be constructed. The design of the streetscape improvements shall include landscaping and street trees, hardscape sidewalk, lighting, benches, and an approximately 15 foot by 15 foot landscaped parklet (located closest to South Passaic Avenue) that are complimentary to the streetscape design along South Passaic Avenue. The streetscape enhancement area shall not encroach on any existing parking spaces nor shall it result in the loss of any parking spaces.
   5. The building shall be designed to meet the LEED Silver level but is not required or obligated to obtain a LEED certification. LEED Silver will be demonstrated by way of a LEED score card.

F. Affordable Housing Requirements for the B-4 (AH) District:
   1. Fifteen percent (15%) of the maximum 29 units shall be set aside for low and moderate income housing. A payment of $63,000 will be made to the Borough's affordable housing trust fund for the remaining 0.35 fractional unit in accordance with Chapter 69 of the Borough Code (35% of $180,000.00).
   2. The affordable units shall consist of one (1) one-bedroom unit (very low income), two (2) two-bedroom units (1 low income and 1 moderate income), and one (1) three-bedroom unit (moderate income).
   3. The size of the affordable units shall be pursuant to Borough Ordinance 165-44 (i.e. studio – 450 square feet; one bedroom - 600 square feet; two bedroom - 750 square feet; three bedroom - 900 SF). If any relief from the DCA or the county Mount Laurel judge is required for these unit sizes, the Borough shall apply for or support an application for such relief regarding affordable unit sizes.

Section 2:
All other provisions of Chapter 165 of the Code of the Borough of Chatham shall remain unchanged.

Section 3:
Pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40A:55-1 et seq., after introduction of this Ordinance, it shall be referred to the Chatham Borough Planning Board for the review required by law prior to the hearing on adoption of this Ordinance.

Section 4:
Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the

legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 5:
Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6:
Codification. This Ordinance shall be a part of the Code of the Borough of Chatham as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of Chatham 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 upon passage, adoption, and publication in the manner prescribed by law.

Name	Motion	Second	Yes	No	Abstain	Absent
Hargrove		X	X			
Gilmore			X			
Hay			X			
Koronkiewicz	X		X			
Mathiasen			X			
Strickland					X	

Introduced: February 23, 2026
Passed and Approved: March 9, 2026

Attest:

Vanessa L. Nienhouse, RMC, CMC
Borough Clerk

BOROUGH OF CHATHAM

Carolyn Dempsey
Mayor

CERTIFICATION

I, Vanessa L. Nienhouse, Borough Clerk for the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of an Ordinance that was read on second reading by the Borough Council at its Regular Meeting held on March 9, 2026.

Vanessa L. Nienhouse, Borough Clerk