BOROUGH OF CHATHAM
MORRIS COUNTY

ORDINANCE #26-06

AN ORDINANCE OF THE BOROUGH OF CHATHAM TO AMEND CHAPTER 165 "LAND DEVELOPMENT," TO CREATE THE BUSINESS AFORDABLE HOUSING OVERLAY (B-AHO) ZONING 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 overlay district to be known as the Business Affordable Housing Overlay (B-AHO) Zoning District; and,

WHEREAS, in any instance in which these regulations and standards do not address a particular land development control, or when specific reference to the Borough's Land Development Ordinance is made, the standards of the Borough's Land Development Ordinance shall apply.

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 165-35.6, entitled "Business Affordable Housing Overlay (B-AHO) Zoning District," shall be added to Chapter 165 of the Code of the Borough of Chatham, "Land Development Regulations," and shall read as follows:

§ 165-35.6 **Business Affordable Housing Overlay (B-AHO) District.**

A. The purpose of this Ordinance is as follows:

1. To find ways for a developed community to balance legitimate zoning and planning objectives with the need and constitutional obligation to provide affordable housing.

2. To attempt to channel affordable housing in the areas of the Borough that are best suited to accommodate affordable housing.

3. To address its affordable housing unmet need obligation, the Borough is establishing the Business Affordable Housing Overlay (B-AHO) Zoning District in order to create an opportunity for housing development in the Borough that is affordable to very low, low- and moderate-income households. This Ordinance permits the creation of multi-family housing within this zone, provided that such housing complies with a required inclusionary set-aside requirement and with all of the other the requirements of this Ordinance.

B. Location. The Business Affordable Housing Overlay (B-AHO) Zoning District is applicable to the following specific Blocks/Lots in the existing B-3 and B-5 Zoning Districts: (1) Block 49, Lots 1, 2 and 3 on the tax map of the Borough of Chatham; (2) Block 129, Lots 1, 3 and 4 on the tax map of the Borough of Chatham.

C. Principal permitted uses. The following principal use shall be permitted in the Business Affordable Housing Overlay (B-AHO) Zoning District: Inclusionary multi-family dwellings, provided that (1) the minimum affordable housing set-aside is met; (2) all affordable housing units produced comply with the Borough's Affordable Housing Ordinance.

D. Accessory uses permitted. The following accessory uses and structures shall be permitted in the Business Affordable Housing Overlay (B-AHO) Zoning District:

1. Accessory uses on the same lot, with and customarily incidental to, any of the above permitted uses.

2. Surface parking and parking garages.

E. Development standards in the Business Affordable Housing Overlay (B-AHO) Zoning District are as follows:

1. Maximum density: 21.1 du/acre.

2. Minimum front yard setback: 30 feet.

3. Maximum front yard setback: 50 feet.

4. Minimum side yard setback: 10 feet.

5. Minimum rear yard setback: 15 feet.

6. Maximum height: 40 feet.

7. Maximum stories: 3 stories.

8. Maximum impervious coverage: 65%.

9. Maximum building coverage: 30%.

10. Minimum building setback from residential zone or use: 75 feet.

11. Minimum buffer in accordance with Section 165-163D of the Borough Code to residential zone or use: 50 feet

12. Minimum parking setback to residential zone or use: 50 feet

13. Building design requirements include the following:

a. The third story shall be setback a minimum of 10 feet from any façade facing a public right-of-way or is adjacent to a single-family residence of the building.

b. Mechanical equipment shall be set back from all building facades by at least 10 feet and screened.

c. Parapet walls are permitted up to five (5) feet in height, as measured from the maximum height limit, or finished level of roof. A guardrail with a surface of at least 70 percent open or with opacity of not more than 30 percent (as viewed in elevation) shall be permitted above a parapet wall or within two (2) feet of a parapet wall, provided that such guardrail is not more than four (4) feet in height. Such restriction on guardrail height shall not apply when located beyond two (2) feet from a parapet wall, in which case the guardrail shall be exempt from parapet height requirements.

F. The following affordable housing requirements shall apply to all developments with a residential component:

1. All developments with a residential component must include an on-site affordable housing set-aside of twenty percent (20%).

2. All affordable units created shall fully comply with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the required bedroom and income distribution, with the sole exception that thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be restricted for very-low-income households earning thirty percent (30%) or less of the median income pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA").

3. At least fifty percent (50%) of the affordable units within each bedroom distribution shall be affordable to low-income households, inclusive of the at least thirteen percent (13%) of units affordable to very-low-income households.

4. The very-low-income affordable units shall be proportionately distributed within each bedroom distribution. In a family non-age-restricted development, at no time shall the number of one-bedroom very-low-income units exceed the number of three-bedroom very-low-income units.

5. Affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market-rate units. The affordable units shall also be of the same type as the market-rate units (e.g., if the market-rate units are non-age-restricted family units, the affordable units shall be non-age-restricted family units as well). The residents of the affordable units shall have full and equal access to all of the entryways, amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.

6. Affordable units shall be subject to affordability controls as provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the Borough, in its sole discretion, takes action to extend or release the unit from such controls.

7. Construction of the affordable and market units shall be phased in compliance with UHAC.

8. Affordable units shall be affirmatively marketed in accordance with UHAC, the Borough's affirmative marketing plan, and applicable law. The affirmative marketing shall include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

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			
Gilmore					X	
Hay		X	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