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# Borough of Chatham

BOROUGH HALL

54 FAIRMOUNT AVENUE • CHATHAM • NEW JERSEY 07928

## ORDINANCE # 21-23

### AN ORDINANCE OF THE BOROUGH OF CHATHAM TO AMEND CHAPTER 165 "LAND DEVELOPMENT REGULATIONS", TO CREATE THE GATEWAY AFFORDABLE HOUSING OVERLAY 2 DISTRICT - (GAHO-2)

**WHEREAS**, this Ordinance was reviewed by the Planning Board on December 1, 2021, and the Board has determined it is consistent with the Master Plan.

**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 (Land Development Regulations) of the Code of the Borough of Chatham is hereby amended or supplemented as follows:

#### PURPOSE

The purpose of this Ordinance is to Amend *Chapter 165* of the *Land Development Regulations* to add Section 165-35.1 Gateway Affordable Housing Overlay 2 District (GAHO-2) as an additional overlay district.

In any instance in which these regulations and standards do not address a particular land development control, or when specific reference to the Land Development Ordinance is made, the standards of the Land Development Regulations shall apply:

#### SECTION 1

That Chapter 165, Development Regulations, Section 165-35.1 Gateway Affordable Housing Overlay 2 District (GAHO-2) shall be added as follows:

#### 165-35 Gateway Affordable Housing Overlay 2 District (GAHO-2)

a. Purpose: The Borough adopts this ordinance to advance the following objectives:

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 shall implement a Gateway Overlay Ordinance that creates an opportunity for housing in the Borough that is affordable to very low, low- and moderate-income households. This Ordinance establishes the Gateway Affordable Housing Overlay 1 District (GAHO-1) Zone, and permits the creation of multi-family housing within the GAHO-1 provided that such housing complies

with a required inclusionary set-aside requirement and with the requirements of this ordinance.

- b. Location. The Gateway Affordable Housing Overlay 2 District (GAHO-2) is applicable to Blocks/Lots in the M-3 Zoning District as follows:

<b>Block</b>	<b>Lot(s)</b>
140	11, 12, 12.01, 13, 14, 15, 16

- c. Permitted uses. The following uses shall be permitted in the Gateway Affordable Housing Overlay 2 District (GAHO-2):

1. Mixed Use Development including inclusionary multi-family residential units provided:
  - i. The minimum affordable housing set-aside is met;
  - ii. All affordable housing units produced comply with the Borough's Affordable Housing Ordinance.
  - iii. Uses permitted to be mixed with multi-family residential units may include the following:
    - a) Art Galleries
    - b) Artisan Workshop
    - c) Brewery
    - d) Brewpub
    - e) Business Services
    - f) Child Care Centers
    - g) Community Center
    - h) Convenience Store
    - i) Financial Institutions, Including Banks
    - j) Indoor Commercial Recreation/Fitness Club
    - k) Live/Work Lofts
    - l) Museum
    - m) Office
    - n) Personal Services
    - o) Public Open Space
    - p) Public Purpose Use
    - q) Recreational Instruction
    - r) Restaurants
    - s) Retail Services
    - t) Retail Trade
    - u) Theater
2. Inclusionary multi-family dwellings provided:
  - i. The minimum affordable housing set-aside is met;
  - ii. 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 GAHO-2 District provided they are located on the same premises as the principal use or structure to which they are accessory and are located in the rear yard:

1. Accessory uses on the same lot with and customarily incidental to, any of the above permitted uses.
2. Surface parking area and garages.
3. Outdoor drinking and eating establishments.
4. Roof deck.

e. Development Standards

1. Minimum lot area: 15,000 square feet (may be met by multiple contiguous parcels)
2. Maximum density: 18 du/acre
3. Minimum front yard setback: 10 feet
4. Maximum front yard setback: 20 feet
5. Minimum side yard setback: 10 feet
6. Minimum rear yard setback: 15 feet
7. Maximum height: 54 feet
8. Maximum stories: 4 stories
9. Maximum impervious coverage: 85%
10. Maximum building coverage: 75%
11. Front-loaded townhouses are prohibited.
12. Building Design.
  - i. The third story is 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.
  - ii. Rooftop appurtenances including architectural features such as spires, cupolas, domes, and belfries, are permitted to exceed the listed maximum height, as long as they are uninhabited, their highest points are no more than 15 feet above the maximum overall height of the building, and as long as the total area enclosed by the outer edges of the appurtenances, measured at the maximum overall height of the building, does not exceed 15 percent of the total horizontal roof area of the building.
  - iii. Stairs and elevator penthouses that project above the maximum overall height of the building shall count toward the 15 percent allowance. Equipment screens which project above the maximum overall height of the building shall also count toward the above 15 percent allowance.

- iv. Mechanical equipment shall be set back from all building facades by at least 10 feet and screened.
- v. Parapet walls are permitted up to five 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 feet of a parapet wall, provided that such guardrail is not more than four feet in height. Such restriction on guardrail height shall not apply when located beyond two feet from a parapet wall, in which case the guardrail shall be exempt from parapet height requirements.

13. Affordable Housing.

- a. All developments with a residential component will deliver an on-site affordable housing set-aside of fifteen percent (15%) for rental units and twenty percent (20%) for for-sale units.
- b. 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").
- c. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if the fractional amount is less than 0.5. The developer shall either provide the affordable unit or provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu shall be based on the amounts established in Chapter 69-4(D) of the Borough's Code.
- d. 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.
- e. 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.
- f. 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.

- g. Affordable units shall be subject to affordability controls of at least thirty (30) years from the date of initial occupancy and affordable deed restrictions as otherwise 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 municipality, in its sole discretion, takes action to extend or release the unit from such controls after at least thirty (30) years.
- h. Construction of the affordable and market units shall be phased in compliance with N.J.A.C. 5:93-5.6(d).
- i. 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 Ordinances or parts of Ordinances inconsistent with this Ordinance if held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this Ordinance.

## SECTION 3

The Borough Clerk is hereby directed, upon adopt of the Ordinance after public hearing thereon, to publish notice of the passage thereof and to file a copy of this Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S.40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Borough Tax Assessor as required by N.J.S.40:49-2.1.

## SECTION 4

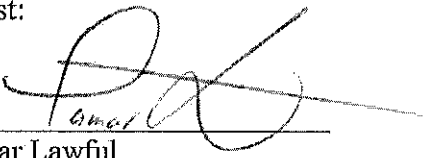
This Ordinance shall take effect immediately upon final passage and publication according to law and filing with the Morris County Planning Board.

Name	Motion	Second	Yes	No	Abstain	Absent
Dempsey	X		X			
Mathiasen						X
Koronkiewicz			X			
Treloar			X			
Resto		X	X			
Truilo			X			


Introduced: November 22, 2021

Adopted: December 13, 2021

Attest:

  
\_\_\_\_\_  
Tamar Lawful  
Borough Clerk

BOROUGH OF CHATHAM

  
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Thaddeus J. Kobylarz  
Mayor