

ORDINANCE 3-2021
AN ORDINANCE REPEALING AND REPLACING AFFORDABLE HOUSING
ORDINANCES OF THE BOROUGH OF CLAYTON

WHEREAS, the Borough of Clayton has an affirmative statutory and constitutional obligation to provide its fair share of affordable housing for low- and moderate-income households within the Borough of Clayton; and

WHEREAS, part of this obligation includes an obligation to ensure that a municipality's ordinances are designed to effectuate the provision of affordable housing in a manner that will enable the municipality to provide its fair share of affordable housing; and

WHEREAS, upon review of its Ordinances, the Mayor and Borough Council of the Borough of Clayton ("Mayor and Borough Council") have determined that the Ordinances governing affordable housing obligations within the Borough of Clayton are outdated and refer to and incorporate language from the growth share obligations set forth in the Third Round Rules which were invalidated by the New Jersey Supreme Court in In re Adoption of N.J.A.C. 5:96, 215 N.J. 578 (2013), and are in need of amendments to reflect the current legal standards applicable to affordable housing developments, including the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. ("FHA") and the Settlement Agreement entered into between the Borough of Clayton and Fair Share Housing Center, dated November 7, 2016 ("Settlement Agreement"); and

WHEREAS, the Mayor and Borough Council have determined it is in the best interest of the Borough of Clayton to revise and update its affordable housing Ordinances to ensure that the Borough of Clayton can continue to satisfy its affordable housing obligations in the future; and

WHEREAS, the Mayor and Borough Council have determined it is in the best interest of the Borough of Clayton to repeal Chapter 31A of the Borough Ordinances and replace the same with the language set forth in Exhibit A attached hereto, and to repeal Section 88-41 of the Unified Development Ordinances and replace it with the language set forth in Exhibit B; and

WHEREAS, the Municipal Land Use Law at N.J.S.A. 40: 55D-62a requires substantial consistency of the provisions regulating zoning and land use with the adopted Land Use Plan Element and Housing Element; and

WHEREAS, a copy of this Ordinance has been referred to the Planning Board in accordance with N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-27 and the Planning Board has determined that is consistent with the adopted Land Use Plan Element and Housing Element and Fair Share Plan; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Clayton as follows:

Section 1. Purpose. The purpose of this Ordinance is to revise and update the affordable housing Ordinances of the Borough of Clayton to reflect the current legal standards

applicable to affordable housing developments and to enable the Borough of Clayton to continue to satisfy its affordable housing obligations in the future.

Section 2. Amendment of Chapter 31A. Chapter 31A of the Code of the Borough of Clayton is hereby repealed in its entirety and replaced with Exhibit A attached hereto.

Section 3. Amendment to Section 88-41. Section 88-41 of the Unified Development Ordinance is hereby repealed and replaced in its entirety with Exhibit B attached hereto.

Section 4. Amendment to Section 88-6. The definition of "Inclusionary Development" set forth in Section 88-6 of the Unified Development Ordinance is hereby replaced in its entirety with the following:

INCLUSIONARY DEVELOPMENT

A development containing both affordable housing units and market-rate units. This term includes, but is not necessarily limited to, new construction, the conversion of a nonresidential structure to residential and the creation of new affordable housing units through the reconstruction of a vacant residential structure.

Section 5. Continuation. In all other respects, the Unified Development Ordinance of the Borough of Clayton shall remain unchanged.

Section 6. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 7. Interpretation. If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Borough of Clayton, then the provisions of this Ordinance shall govern.

Section 8. Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 9. Notice. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Gloucester County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required). The Borough Clerk is also directed to give notice of the introduction and adoption of this Ordinance in accordance with N.J.S.A. 40:49-2.1.

Section 10. Referral to Planning Board. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Clayton for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64.


BE IT FURTHER ORDAINED, by the Borough Council that this Ordinance shall take effect immediately upon (1) final passage and adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with (a) the Gloucester County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

ATTEST:



CHRISTINE NEWCOMB, Borough Clerk

BOROUGH OF CLAYTON



THOMAS BIANCO, Mayor

NOTICE OF INTRODUCTION

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TAKE NOTE that the foregoing ordinance was introduced at a meeting of the Mayor and Council of the Borough of Clayton held on February 11, 2021 and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at the Municipal Building, 125 N. Delsea Drive, Clayton, New Jersey, at a meeting beginning 6:30 p.m. on March 11, 2021, at which time and place, or any time and place to which such meeting be adjourned, all persons interested will be given an opportunity to be heard concerning such ordinance.

BY ORDER of the Mayor and Council of the Borough of Clayton.

Christine Newcomb
Borough Clerk

NOTICE OF ADOPTION

ORDINANCE 3-2021

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ORDINANCES OF THE BOROUGH OF CLAYTON**

The foregoing Ordinance was finally adopted by the Mayor and Council of the Borough of Clayton on March 11, 2021.

Christine Newcomb
Borough Clerk