

O-11-18

AN ORDINANCE AMENDING THE ZONING ORDINANCE TO PROVIDE AFFORDABLE HOUSING OVERLAY ZONES IN THE BOROUGH OF WHARTON

WHEREAS, it is the intent of the Borough to comply with the Mount Laurel Doctrine of providing the Borough's fair share of low- and moderate-income housing within the Borough;

WHEREAS, the purpose of the affordable housing overlay zones is to create a realistic opportunity for the construction of low- and moderate-income housing in Wharton on land that has the potential for development, thereby addressing the Borough's fair share housing obligation under the New Jersey Fair Housing Act and constitutional obligations to provide affordable housing;

WHEREAS, on December 13, 2016, the Borough of Wharton adopted its amended 2016 Housing Element and Fair Share Plan;

WHEREAS, on October 27, 2016, the New Jersey Superior Court entered an Order declaring that the Borough's 2016 HEFSP is valid and meets its Mount Laurel affordable housing obligations; and

WHEREAS, the Governing Body has determined that the implementation of the 2016 Housing Element and Fair Share Plan noted above is in the public interest and protects public health and safety and promotes the general welfare and is consistent with the goals and objectives of the Borough of Wharton's Master Plan;

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Wharton, that the following amendments to the Zoning Ordinance are hereby adopted as follows:

ORDINANCE AMENDMENTS:

The listed sections of the ordinance are to be amended as follows:

§165-85 Zoning Districts to be amended to add the following:

- | | |
|-------|---|
| AH-3 | Affordable Housing Overlay District |
| AH- 4 | Affordable Housing Overlay District |
| AHOO | Affordable Housing Overall Overlay District |

§165-86 C Zoning Map to be added:

The following lots and blocks are added as follows:

Block	Lot	Existing Zone	Overlay Zone
106	23	B-1	AH-3
102	48, 49, 50	B-1	AH-4
All block and lots within the municipality			AH-OO

§165-88 Schedule of regulations:

Schedule XI-1 should include the following additional items:

Zone	Principal Permitted Uses	Conditional Uses	Accessory Uses
AH-3*	Apartments over permitted B-1 commercial uses	Same as B-1	Same as B-1
AH-4*	Apartments over permitted B-1 commercial uses; Apartments; Garden Apartments	Same as B-1	Same as B-1
AH-OO*	Multi-Family Dwellings; Garden Apartments; Apartments over permitted commercial uses	Same as underlying zone	Same as underlying zone

*Subject to requirements of Schedule XI-3

Schedule XI-2 should include the following additional items:

Zone	Minimum Lot Area (Square Feet)	Minimum Lot Area within This Distance from Front Lot Line (Square Feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Building Coverage (percent)	Maximum Impervious Coverage (percent)	Maximum Building Height (stories/feet)		Density/FAR
										stories/ft.	stories/ft.	
AH-3	4 acres	NA	100	100	10	10	20	50	70	4	50	15
AH-4	1 acre	NA	100	100	10	10	20	50	70	4	50	15
AH-OO	**	**	**	**	**	**	**	**	**	**	**	Min. 6

**As permitted by underlying zone.

The following Schedule XI-3 shall apply for the AH-3, AH-4 and AH-OO overlay zones:

Schedule X1-3

Borough of Wharton Affordable Housing Overlay Zones

a. AH-3: Wharton Mall (Block 106, Lot 23). This overlay zone may be utilized when redeveloping the site or rehabilitating the site to include a residential component in one or more mixed-use structures. The overlay zone provides for a residential density of fifteen (15) dwelling units per acre. If residential units are proposed, a minimum of 15 percent would be dedicated to low/moderate income housing in the case of rental units and a minimum of 20 percent would be dedicated to low/moderate income housing in the case of for sale units. The affordable units are subject to Section 165-111 through 165-123 of the Borough's Ordinances.

b. AH-4: North Main Street (Block 102, Lot 48,49 & 50). This overlay zone may be utilized when redeveloping the site or rehabilitating the site to include a residential component in one or more mixed-use or multi-family structures. The overlay zone provides for a residential density of fifteen (15) dwelling units per acre. If residential units are proposed, a minimum of 15 percent would be dedicated to low/moderate income housing in the case of rental units and a minimum of 20 percent would be dedicated to low/moderate income housing in the case of for sale units. The affordable units are subject to Section 165-111 through 165-123 of the Borough's Ordinances.

c. AH-OO: Overall Overlay Zone: This municipal-wide overlay zone may be utilized when any parcel that is rezoned, receives a density variance and/or is developed/redeveloped at a density of greater than six (6) dwelling units per acre and a total of 20 units or more are created, then an affordable housing set-aside must be provided. In the event that the units are rental units, the affordable housing set-aside would be 15 percent. In the event that the units are for sale, the affordable housing set-aside would be 20 percent. The proposed overlay zones would not permit age-restrictions on affordable units which are set-aside. The affordable units are subject to Section 165-111 through 165-123 of the Borough's Ordinances.

§165-90 General Provisions, Number of Buildings Restricted shall be amended as follows:

G(1)(g) AH-3, AH-4 and AH-OO Affordable Housing Overlay Zones.

H. Limitation on number of uses on each lot. There shall be no more than one principal use on each lot, except that multiple uses shall be permitted in the CBD, B-1, B-2, I-1, I-2, I-3, AH-3, AH-4 and OAL Districts. Multi-use buildings in the I-2 and I-3 Zones would be required to have the same architectural style and facade treatment to permit a uniform design. In the CBD District, residential apartments shall be limited to the second floor and above of the building.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

**First Reading: June 25, 2018
Second Reading: July 16, 2018**

ATTEST:

**Gabrielle Evangelista,
Borough Clerk**

BOROUGH OF WHARTON

**WILLIAM J. CHEGWIDDEN,
MAYOR**