

**BOROUGH OF PEAPACK AND GLADSTONE**

**ORDINANCE NO. 1059-2018**

**AN ORDINANCE AMENDING PORTIONS OF CHAPTER XXIII, ARTICLE IV, TITLED “LAND DEVELOPMENT ORDINANCE” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF PEAPACK AND GLADSTONE PERMITTING A RESIDENTIAL HOUSING COMMUNITY ON CERTAIN LANDS IN THE ORL AND RR-5 ZONING DISTRICTS**

**WHEREAS**, pursuant to the Municipal Land Use Law of the State of New Jersey, N.J.S.A. 40:55D-1 et seq., a governing body of a municipality may adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings and structures thereon within the municipality; and

**WHEREAS**, consistent with the Municipal Land Use Law, a governing body of a municipality may elect to not only create, but also from time to time modify land use regulations; and

**WHEREAS**, in accordance therewith, the governing body of the Borough of Peapack and Gladstone did so consider modifications to the existing Section 39.9 of Chapter XXIII of the Land Development Ordinance of the Borough of Peapack and Gladstone, Article IV, titled “Zoning”; and

**WHEREAS**, the Borough Council finds that the proposed zoning changes as set forth herein are appropriate to advance the health, safety and welfare of the Borough’s residents and property owners and are in the interests of good zoning and planning; and

**WHEREAS**, the Borough Council believes that it is in the best interests of the Borough and its residents that Chapter XXIII, Article IV of the Borough of Peapack and Gladstone’s Land Development Ordinance be amended as set forth herein to encourage the most appropriate use of the land affected by the zoning change proposed herein.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Peapack and Gladstone, in the County of Somerset and State of New Jersey, as follows:

**Section 1.** Chapter XXIII of the Land Development Ordinance of the Borough of Peapack and Gladstone, Article IV, titled “Zoning”, Sections 23-39.9 is hereby amended as follows:

**23-39.9 Residential Housing Community.**

- a. *Purpose.* The intent of permitting a Residential Housing Community on certain lands within the ORL and RR-5 zoning districts is to provide a development alternative which would result in the construction of high quality attached residences which will have less

adverse impact upon the road network, infrastructural needs, the environment, and contribute to the Borough's affordable housing obligation.

- b. *Minimum Tract Size.* A Residential Housing Community must contain at least seventy-five (75) acres of land area only within the ORL and RR-5 zoning district where designated on the Zoning Map.
- c. *Permitted Uses.*
  1. Single-family detached or duplex high quality dwelling units except in the case of affordable housing units which can be flats in one or more buildings, up to two stories in height.
  2. Conservation areas, open spaces and common property.
  3. Recreational, excluding playgrounds and tot lots, clubhouse, community swimming pool not greater than 75 feet long, gatehouse and property management/maintenance facilities are permitted as may be specifically approved by the Land Use Board.
  4. Notwithstanding any other provisions of this section to the contrary, including subsection 23-39.9c,5. hereinbelow, patios, walkways, porches, retaining walls and other structures are permitted in all yard areas as may be specifically approved by the Land Use Board.
  5. An open area for the private use of the residents of an individual dwelling unit is permitted in accordance with the following:
    - (a) The area shall be located in the rear of a dwelling unit only, and shall be dimensioned so as not to exceed the width of the unit nor extend more than twenty (20') feet from the rear-most wall of the unit.
    - (b) The designated area may include patios, gardens, built-in barbeques, arbors, pergolas and/or fountains.
    - (c) The designated area may include decks, patios, porches and/or terraces as may be specifically approved by the Land Use Board.
    - (d) In any case, individual swimming pools, spas, sheds and similar structures are not permitted.
- d. *Maximum Number of Dwelling Units Permitted.* The maximum number of permitted dwelling units within the Residential Housing Community shall not exceed 1.09 dwelling units per gross acre of land within the subject tract, rounded downward to the nearest whole number, provided that, in any case, no Residential Housing Community shall contain more than sixty-eight (68) market dwelling units. Additionally, the developer shall be obligated to provide for twenty percent (20%) affordable housing units in accordance with N.J.A.C. 5:95 et seq., or fourteen (14) units affordable housing either on-site or on an adjacent site at the cost of the developer.

1. The Developer shall construct or shall cause to be constructed fourteen (14) units of non-age restricted rental housing reserved for, and affordable to, low and moderate income households. The Developer agrees that it will fully assume all costs of the development and construction of these units and will not seek local, State, or Federal subsidies for the fourteen (14) units of non-age restricted rental housing. The construction and operation of these units shall be governed by the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency in force as the date of this Agreement, N.J.A.C. 5:80-26. Except as otherwise expressly provided in this Agreement, these standards shall govern, among other things, bedroom distribution, balance between low and moderate income units, rent levels, affirmative marketing, the term of affordability, and the process for restrictions on affordability to be released. Phasing of the affordable units shall be in accordance with the schedule at N.J.A.C. 5:93-5.6(d).
2. Two (2) of the low income units will be affordable to, and reserved for, very low income households with incomes at 30 percent of the regional median income.
3. The Developer may elect to develop or provide for development of fourteen (14) units of non-age restricted rental housing reserved for, and affordable to, low and moderate income households on adjacent off-site locations. If the fourteen (14) affordable units are provided off-site, the adjacent off-site affordable units and the 68 units of non-age restricted market priced housing shall be phased as one project in accordance with the schedule at N.J.A.C. 5:93-5.6(d). If the adjacent off-site location has been identified in the settlement agreement between Fair Share Housing Center and the Borough as a site that will be rezoned to provide affordable housing, the Developer shall develop both the fourteen (14) units of non-age restricted rental housing and the number of affordable homes planned for the off-site location as identified in the settlement agreement between Fair Share Housing Center and the Borough.
4. If the Developer chooses to develop or provide for the development of the low and moderate units or on adjacent off-site locations, it shall give written notice to the Municipal Parties and Fair Share Housing Center prior to filing an application for subdivision or site plan approval of the Property. The notice shall specify the proposed location of the low and moderate income housing, and, if not to be developed by the Developer, the name and address of the designated developer of that housing.
5. The Borough shall notify the Developer in writing within 30 days whether the site is acceptable. If the site is acceptable, the Municipal Parties shall take all reasonable steps necessary to facilitate development of these units, including adoption of amendments to the Borough's zoning ordinance.
6. Cost-Increasing Requirements. Regardless of whether the low and moderate income units are constructed on the Property or off site, neither the Borough nor the Land Use Board may impose any procedural or substantive requirement that adds to the burden or cost of development of the Property or of the low and moderate income

units which is not necessary to protect public health, safety or the environment in accordance with law and regulation.

- e. *Design Requirements for Dwelling Units.*
1. No dwelling unit shall exceed thirty-eight (38) feet in height.
  2. In order to reasonably assure that there is a diversity of architectural design for the dwelling units, at least three (3) different looking model types shall be provided to the Land Use Board for review and approval.
  3. The exteriors will employ natural materials and, or products that reflect the quality, integrity and aesthetics of natural materials.
  4. Each dwelling unit shall provide an attached two (2) car garage and each dwelling unit shall contain at least two thousand four hundred (2,400) square feet of gross floor area, excluding the garage and a maximum of three thousand six hundred (3,600) square feet of gross floor area excluding the garage. The Applicant shall be required to construct twenty-five (25%) percent of the market units with master bedroom suites on the first floor.
  5. The aggregate building coverage of all dwelling units on the subject tract shall not exceed seven (7%) percent, and the total impervious coverage throughout the development shall not exceed twenty (20%) percent.
  6. All buildings shall be set back at least twenty-five (25) feet from all internal roadways.
  7. All buildings shall be separated from each other by a distance of at least twenty-five (25) feet in accordance with the following:
    - (a) For the purpose of determining the separation distance between buildings, any deck, patio or terrace which is two (2) feet in height or higher shall not be permitted to encroach within the required twenty-five (25) foot separation distance.
    - (b) However, any deck, patio or terrace which is less than two (2) feet in height shall be permitted to be located within the required twenty-five (25) foot separation distance, provided that no such deck, patio, porch or terrace shall extend more than ten (10) feet from the exterior wall of the subject dwelling unit.
- f. *Perimeter Setbacks and Buffers.* All non-affordable housing units shall be setback from State Route 206 at least 200 ft. and all non-affordable housing units shall be setback at least 150 ft. from all other tracts. The property can be fenced or gated.
1. Within the required two hundred (200) foot building setback from Route 206, a buffer at least one hundred (100) feet in width shall be provided.
  2. Within the required one hundred fifty (150) foot building setback from all other tract boundaries, a buffer at least fifty (50) feet in width shall be provided, except that in

instances where an existing dwelling unit is replaced with a new dwelling unit or units and there is not sufficient room for a fifty (50) foot buffer, an appropriately reduced buffer width shall be permitted by the Land Use Board.

3. Within the required buffers, any existing vegetation shall remain, and the Land Use Board may require the applicant to supplement the existing vegetation in order to provide an appropriate visual screen.
4. Notwithstanding any other provision of this subsection to the contrary, utility lines, access roads and stormwater outfall facilities may be located in the required buffers provided that the Land Use Board determines that such structures have been located and designed to reasonably minimize the need to remove existing trees.
5. Setbacks for affordable housing units can be reduced to 50 ft. from northern tract boundaries.

g. *Open Space Requirements.*

1. Land equal to a minimum of seventy-five (75%) percent of the tract of land proposed for a Residential Housing Community shall be specifically set aside for conservation, passive recreation and/or other open space purposes.
  - (a) No land utilized for street rights-of-way shall be included as part of the above seventy-five (75%) percent.
  - (b) Except for stormwater management facilities, emergency access roads and utilities as may be approved by the Land Use Board, any land proposed and approved as open space shall be left in its current condition and/or improved to best suit the purpose(s) for which the particular open space is intended to be used, provided that such uses and improvements must be specifically approved by the Board.
2. To the extent practicable, all dwellings shall abut open space.
3. Open space shall be dedicated as common open space to a Homeowners' Association as provided in N.J.S.A. 40:55D-43. Such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise. The applicant shall prepare a restrictive covenant, which recites and insures the approved restrictions on the open space. The form, substance and filing of the restrictive covenant shall be as approved by the Land Use Board in consultation with the Land Use Board Attorney and with the Borough Attorney.

h. *Signage.* Permitted signage within a Residential Housing Community shall be as specifically approved by the Land Use Board.

i. *Lighting.* Lighting within a Residential Housing Community shall be as specifically approved by the Land Use Board in accordance with the following:

1. The amount of lighting shall be minimal for safety purposes.

2. No lighting stanchion and attached light fixture shall extend higher than fourteen (14) feet above the ground.
- j. *Homeowners' Association Responsibilities.* All roadway maintenance, snow removal, the maintenance of all stormwater management facilities, fire hydrant servicing, and the operating costs and maintenance of all lighting fixtures, signage and recreational facilities shall be the responsibility of the Homeowners' Association.
- k. *Other Applicable Requirements.* All other applicable provisions of The Revised General Ordinances of the Borough of Peapack and Gladstone that are not in conflict with the provisions specified herein for a Residential Housing Community shall apply.

**Section 2.** 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 Somerset County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15 and 40:55D-62.1. The Borough Clerk shall execute any necessary Proofs of Service of the notices required by this section, and shall keep any such proofs on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

**Section 3.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Land Use Board of the Borough of Peapack and Gladstone for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board, acting in its capacity as Planning Board, is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 4.** If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**Section 5.** All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

**Section 6.** This Ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in accordance with the laws of the State of New Jersey.

Introduced: June 26, 2018

Adopted:

**ATTEST:**

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Nancy A. Bretzger, RMC  
Municipal Clerk

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William C. Muller  
Mayor