

**BOROUGH OF PEAPACK AND GLADSTONE
SOMERSET COUNTY, NEW JERSEY**

ORDINANCE NO. 1112-2022

AN ORDINANCE TO AMEND CHAPTER XXIII, "LAND DEVELOPMENT ORDINANCE" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF PEAPACK AND GLADSTONE AMENDING ARTICLE XIA, MU-AH MIXED USE AFFORDABLE HOUSING ZONE AND AMENDING ARTICLE XI ESTABLISHING A NEW OVERLAY ZONE WITHIN THE ORL, OFFICE RESEARCH LABORATORY ZONE

WHEREAS, pursuant to the New Jersey Supreme Court "Mount Laurel" decisions every municipality within the State has a constitutional obligation to provide opportunities for the development of affordable housing; and

WHEREAS, the Peapack and Gladstone Borough Land Use Board has adopted an amended Housing Element and Fair Share Plan dated August 7, 2020 pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. (hereinafter "Fair Share Plan") to address its constitutional obligation for the Third Round which covers the time period from 1999 to 2025; and

WHEREAS, the Fair Share Plan describes how the Borough of Peapack and Gladstone (the Borough) shall address its fair share of low- and moderate-income housing as documented in the Fair Share Plan itself, the Settlement Agreement entered into between the Borough and Fair Share Housing Center ("FSHC") (hereinafter "FSHC Settlement Agreement"), and the Court Order approving same, after a properly noticed Fairness Hearing; and

WHEREAS, the Fair Share Plan was subsequently endorsed by the Governing Body; and

WHEREAS, the Fair Share Plan identifies certain properties to be zoned for inclusionary development pursuant to the FSHC Settlement Agreement; and

WHEREAS, there have been amendments to the Fair Share Plan and FSHC Settlement Agreement; and

WHEREAS, the amendments to the Fair Share Plan and FSHC Settlement Agreement require amendments to the Borough Land Development Ordinance.

NOW THEREFORE BE IT ORDAINED by the Governing Body of the Borough of Peapack and Gladstone, Somerset County, New Jersey that it does hereby amend and supplement the Zoning Ordinance of the Borough as follows:

Note: deletions of existing ordinance requirements are indicated by ~~strikeout~~ where new sections are indicated by *bold italics*.

SECTION 1. The Lackawanna Avenue Redevelopment Plan, dated April 21, 2022, as prepared by Burgis Associates, a copy of which is attached to this Ordinance as Exhibit A, is hereby adopted in its entirety.

SECTION 2. Article IV §23-38.1 Establishment of Zones is hereby amended and supplemented as follows:

MU-AH Mixed-Use Affordable Housing Zone is renamed ***MU-AH-R Mixed-Use Affordable Housing Rehabilitation Redevelopment Zone***

AH-O Affordable Housing Overlay Zone

SECTION 3. Article IV §23-38.2 Zoning Map is hereby amended and supplemented as follows:

Block 20, Lot 1.02 is hereby rezoned to include the Affordable Housing Overlay Zone (AH-O)

The Mixed-Use Affordable Housing Zone (MU-AH) is hereby renamed Mixed-Use Affordable Housing Redevelopment Zone (MU-AH-R)

SECTION 4. Article XIA, §23-95.11, Mixed Use-Affordable Housing Zone, MU-AH is hereby amended as follows:

§23-95.11 Mixed-Use Affordable Housing Zone is hereby amended and renamed to ***Mixed-Use Affordable Housing Rehabilitation Redevelopment Zone (MU-AH-R)***

§23-95.11.c Principal Permitted Commercial and Residential Uses.

8. Multifamily residential housing ***on ground level***, above commercial or as stand-alone buildings ***provided no more than 30 percent of such multifamily residential units may be placed on ground level.***

10. Boutique and Extended Stay Hotels

§23-95.11.k. Building Height

2. The height limit shall not apply to roof-mounted heating, air-conditioning ***units*** or ~~other~~ mechanical, ***electrical, and plumbing equipment***, except that such equipment shall not exceed a maximum height of 10 feet and shall not occupy more than 25% of the roof area. Additionally, such equipment shall set back from the roof edge a minimum of 10 feet (a minimum of 15 feet for buildings abutting Block 22, Lot 1) and be screened by a wall, cover or by other means, and such screening shall be in keeping with the architectural motif of the building.

5. ***Buildings Fronting on Main Street but not abutting Block 22, Lot 1 shall maintain a 2-story height to a minimum depth of at least 50 feet where thereafter, the building height can increase to no more than 3-stories and shall not exceed 40 feet.***

§23-95.11.l. Parking and Loading

Boutique and Extended Stay Hotels

1.0 parking space per room plus 1 parking space per employee on a maximum shift

§23-95.11.q.1 Architectural Design Standards.

- o. Rooftop utilities, including mechanical, electrical, and plumbing equipment, and HVAC units, are permitted but shall be shielded from public view with appropriate screening that complements the character of the buildings architecture.***
- p. Private balconies shall be permitted but shall not exceed a maximum depth of five (feet) beyond the building facade nor encroach within a required setback. Notwithstanding the foregoing, ground level private and common courtyards shall not be subject to these requirements and may be permitted within the required setback provided the encroachment is screened or landscaped.***
- q. Roof top terrace space may be used as an outdoor amenity provided such use is screened or otherwise not visible from Main Street and the hours of operations are limited to the hours of 8 a.m. to 10 p.m. from Sunday to Thursday, and 8 a.m. to 11 p.m. on Friday and Saturday.***

§23-95.11.r Administration. Applicability. The standards and procedures contained herein shall apply to all projects within the designated redevelopment area.

- 1. Computations Rounding: Where cumulative requirements or limitations are to be computed for purposes of this Plan, fractions shall be carried forward in the summation, and the total rounded to the nearest whole number.***
- 2. Other Actions by the Borough in Furtherance of the Plan. Other actions may be taken by the Borough to further the goals of the Plan. These actions may include, but shall not be limited to, provisions for public infrastructure necessary to service new development and vacation of public utility easements and other easements and rights-of-way as may be necessary for rehabilitation. Unless otherwise agreed to by the designated Redeveloper and the Borough as part of a Redevelopment Agreement, the costs for such actions shall be apportioned in accordance with N.J.S.A. 40:55D-42.***
- 3. Approval process.***
 - a. No development shall occur within the designated redevelopment area without the designation of a developer by the Borough.***
 - b. Upon designation of a developer, the developer shall enter into a Redevelopment Agreement with the Borough. Only designated developers with an executed Redevelopment Agreement with the Borough shall have standing to submit application to the Borough Land Use Board***

for development. No development nor application for development may occur within the Redevelopment Area without an executed Redevelopment Agreement.

- c. Upon the execution of a Redevelopment Agreement with the Borough, an application shall be made to the Borough Land Use Board for Site Plan approval in accordance with the Redevelopment Plan.*
- d. Site Plan and Subdivision Review. Prior to commencement of construction, site plans for the construction of improvements within the Rehabilitation Area, prepared in accordance with the requirements of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et. seq.) and consistent with the applicable attachments to the Redevelopment Agreement, shall be submitted by the applicants for review and approval by the Borough Land Use Board. If there is a material change to the attachments to the Redevelopment Agreement, such material changes must be approved by the Council as a prerequisite to site plan approval.*
- e. Excepting de minimis field changes to an approved site plan approved by the Borough Construction Code Official, no construction or alteration to existing or proposed buildings shall take place until a site plan reflecting such additional or revised construction has been submitted to, and approved by, the land Use Board. This pertains to revisions or additions prior to, during, and after completion of the improvements.*
- f. The Redeveloper shall be required to provide the Borough with copies of all permit applications made to federal, state and county agencies upon filing such applications, as may be required by the Redevelopment Agreement to be executed between the Redeveloper(s) and the Borough.*
- g. Deviations. The Land Use Board may grant deviations from the regulations contained within this Redevelopment Plan where, by reason for exceptional narrowness, shallowness, or shape of a specific piece of property, or by reason of exceptional topographic conditions, preexisting structures or physical features uniquely affecting a specific piece of property, the strict application of any area, yard, bulk or design objective, or regulation adopted pursuant to this Redevelopment Plan would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property. The Land Use Board may also grant such relief in an application relating to a specific piece of property where the purposes of this Redevelopment Plan would be advanced by a deviation from the strict requirements of this Redevelopment Plan and the benefits of the deviation would outweigh any detriments. No relief may be granted under the terms of this section unless such deviation or relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this Redevelopment Plan. An application for a deviation from the requirements of this Redevelopment Plan shall provide public notice of such application in accord with the requirements of public notice as set forth in NJSA 40:55D-12. a. and b.*

- h. Notwithstanding the above, any changes to the uses permitted in this Rehabilitation Area, or any other deviation requiring a "d" variance shall be permitted only by means of an amendment of the Redevelopment Plan by the Governing Body.***
- i. Rehabilitation Actions The Borough shall have such powers and duties as set forth in the LRHL and as may be conferred by this Redevelopment Plan, including, but not limited to, the authority to relocate residents and businesses, to designate Redevelopers, establish clear terms and conditions for rehabilitation through the negotiation, execution, and administration of redevelopment agreements, and to do such other things as permitted by law.***
- j. Relocation Requirements. The Redeveloper will comply with any applicable New Jersey law or regulation applicable to relocation of tenants within the Rehabilitation Area.***
- k. Escrows. The Redevelopment Agreement shall provide that the Redeveloper shall be responsible to post sufficient escrows to cover the reasonable costs of the Borough and the professional consultants retained by the Borough to negotiate the Redevelopment Agreement, any other agreements associated with the project, undertake any studies in connection with the project, review the proposed project and advise the Borough on any and all aspects of the rehabilitation process and as otherwise set forth in the Redevelopment Agreement.***
- l. Infrastructure. In accordance with N.J.S.A. 40:55D-42 or as may otherwise be required by the Borough and agreed to by the Redeveloper in the Redevelopment Agreement, the Redeveloper shall, at Redeveloper's cost and expense, provide all necessary engineering studies for, and construct or install all on-and off-site municipal infrastructure improvements and capacity enhancements or upgrades required in connection with traffic control measures, water service, sanitary sewer service, stormwater management, and flood mitigation measures to the project, in addition to all required tie-in or connection fees subject to appropriate credits as required by law. In accordance with N.J.S.A. 40:55D-42, or as may otherwise be required by the Borough and agreed to by the Redeveloper in the Redevelopment Agreement, the Redeveloper shall, at Redeveloper's cost and expense, also be responsible for providing all sidewalks, curbs, streetscape improvements (street trees and other landscaping), street lighting, and on-and off-site traffic controls and road improvements for the project or required due to the impacts of the project. The Redeveloper shall be required to receive all necessary approvals for infrastructure, including at the County and State level as applicable.***
- m. This Redevelopment Plan may be amended from time to time upon compliance with the requirements of state law and a request for same may be submitted to the Borough Council. The Borough of Peapack and Gladstone reserves the right to amend this plan. The Redeveloper shall remit an escrow for professional fees if it requests a Plan amendment, while the Borough shall bear its own professional fees if the Plan amendment request originates from the Borough or an agency of the Borough. The Borough, at its sole discretion, may require the party requesting the amendments to prepare a study of the impact of such amendments, which study must be prepared by a professional planner licensed in the State of New Jersey and other additional professionals.***

- n. *The provisions of this Redevelopment Plan specifying the rehabilitation of the Rehabilitation Area and the requirements and restriction with respect thereto shall be in effect for a period of fifty (50) years from the date of adoption of this Redevelopment Plan by the Borough Council.*
- o. *Certificate of Completion. Upon completion of a project, the developer shall submit for a Certificate of Completion.*
- p. *Land Use Map Amendment. The adoption of this Redevelopment Plan or any amendments thereto shall automatically allow for any necessary modifications to the official Borough of Peapack and Gladstone Land Use Map to ensure consistency between the two documents.*
- q. *Other Applicable Design and Performance Requirements. Any design or performance standards not addressed within this Redevelopment Plan shall rely on the applicable design and performance standards set forth in the Land Development Code of the Borough of Peapack and Gladstone.*

SECTION 5. Affordable Housing Overlay Zone (AH-O) (New Section)

§23-91 Affordable Housing Overlay Zone

- a. *Purpose. The purpose of this zoning district is to encourage the construction of low and moderate-income housing in conformance with the latest procedural and substantive rules for affordable housing as determined by the Courts or other applicable authority, by permitting 100 percent affordable housing. This ordinance is created in fulfillment of a Settlement Agreement by and between the Borough of Peapack and Gladstone, New Jersey, and the Fair Share Housing Center in connection with the Borough of Peapack and Gladstone declaratory judgment action captioned “In the Matter of the Application of the Borough of Peapack and Gladstone” bearing docket number SOM-L-905-15 pursuant to In re the Adoption of N.J.A.C. 5:96 and 5:97 by the Council on Affordable Housing, 221 N.J. 1 (2015) and to implement the 2020 Borough of Peapack and Gladstone Fair Share Plan as amended. Regulations contained in this section are intended to apply to the specific uses enumerated herein. For all other development, the underlying zone requirements of the OR-L, Office Research Laboratory Zone, which remain in full force and effect, shall apply.*
- b. *Principal permitted uses.*
 - 1. *Multifamily Residential Development constructed solely for affordable housing.*
 - 2. *Self-Storage Facilities.*
 - 3. *Electric Vehicle Charging Stations for public use.*

- 4. Multiple permitted uses shall be permitted on a single lot and may occupy a single building or can be developed as separate structures within the AH-O Zone.**
- c. Accessory Uses.** Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the AH-O Zone.
- d. Maximum Density.** The maximum number of permitted multi-family dwelling units shall not exceed 5 rental units affordable to low- and moderate-income families.
- e. Affordable Housing Requirements.** Low and Moderate-Income (Mount Laurel) Housing Requirements. Residential development, as permitted by this section, shall comply with all provisions of Chapter XXIII, Article IX titled "Affordable Housing."
- f. Area and setback requirements shall be as follows:**
1. **Minimum lot area (acres):** 10
 2. **Minimum lot width (feet)** 500
 3. **Minimum lot depth (feet)** 475
 4. **Minimum setbacks from external lot lines (feet):**
 - a) **Front yard:** 130
 - b) **Side yard:** 100
 - c) **Rear yard:** 100
 5. **Maximum number stories and building height:**
 - a) **Residential:** 2 Stories/35 feet as measured from the first-floor building elevation facing Route 206
 - b) **Self-Storage Facilities:** 3 Stories/50 feet as measured from the first-floor building elevation fronting Route 206
 6. **Maximum building lot coverage:** 10 percent
 7. **Maximum impervious lot coverage:** 50 percent
 8. **Maximum Floor Area Ratio:** 0.125*

**For purposes of calculating the floor area ratio in the AH-O Zone, any floor area below that certain first level of a building is excluded. The first level of a building is considered to be the lowest level that is entirely above grade.*

g. Supplemental Regulations.

1. Parking.

- a) Multifamily: Residential Site Improvement Standards (RSIS) shall apply.*
- b) Self-storage Facilities: 1 space/10,000 square feet plus 1 space per employee on a maximum shift. If determination of the number of required parking spaces results in a fractional space, the fraction shall require one additional parking space.*
- c) Parking may be permitted within a front yard provided such parking is oriented such that vehicle headlights will not face Route 206. In the event parking spaces are proposed that face Route 206, landscaping shall be provided to screen the parking area with a minimum 4-foot evergreen hedge and is landscaped consistent with the standards enumerated in §23-91g.4, Landscape Requirements.*

2. Self-Storage Facilities shall comply to the following requirements:

- a) The only activities permitted in individual storage units shall be the rental of the unit and the pickup and deposit of goods and/or property in dead storage. Storage units shall not be used for activities such as:
 - (1) Residences, offices, workshops, studios, or hobby or rehearsal areas.*
 - (2) Manufacturing, fabrication, or processing of goods, service or repair of vehicles, engines, appliances or other electrical equipment, or any other individual activity.*
 - (3) Conducting retail sales of any kind, including garage or estate sales or auctions, or to conduct any other commercial activity; provided that the operator of the self-service storage may conduct a sale or otherwise liquidate the contents of any storage unit to satisfy and settle an account of unpaid rent or other charges, through public or private sale, in a manner provided by law.*
 - (4) Storage of flammable, perishable or hazardous materials or the keeping of animals.*
 - (5) The rental of trucks, trailers or moving equipment and the installation of trailer hitches are prohibited.**

- b) *Sale of boxes or packing materials is permitted but only if accessory to the self-service storage facility.*
 - c) *Self-service storage facilities shall not operate or allow tenant access between the hours of 12:00 midnight and 6:00 a.m.*
 - d) *All goods and property stored in a self-service storage facility shall be stored in an enclosed building. No outdoor storage of any kind, including but not limited to storage of boats, RVs, commercial vehicles, trailers or similar vehicles, etc., or storage in outdoor storage pods or shipping containers is not permitted. Notwithstanding this restriction, passenger vehicle parking, including non-commercial SUVs, Pick-up Trucks and Vans are permitted to be parked on-site.*
 - e) *Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping the fixtures for other purposes.*
3. *Buffer Requirements. A minimum 100-foot natural vegetated buffer shall be required along the rear and side property lines to form a screen from adjoining residential properties.*
4. *Landscape Requirements.*
- a) *Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts and provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. The impact of any proposed landscaping plan at various time intervals shall be considered. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity; root pattern, maintenance requirements, etc., shall be considered. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged.*
 - b) *Landscaped islands shall be at least six feet in width to accommodate plantings.*
 - c) *Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.*

- d) *All areas that are not improved with buildings, structures and other man-made improvements shall be landscaped with trees, shrubs, ground cover, street furniture, sculpture or other design amenities.*
- e) *Shade trees shall be a minimum 2.5 to 3-inch caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper.*
 - (1) *Ornamental Trees shall be installed at a minimum size of 6 feet in height.*
 - (2) *Shrubs shall be planted at a minimum size of 18 to 24 inches.*
 - (3) *All plant material shall meet the minimum latest American Nursery and Landscape Association Standards.*
 - (4) *Irrigation shall be provided for all landscape and lawn areas in a manner appropriate for the specific plant species.*
 - (5) *A growth guarantee of two growing seasons shall be provided and all dead or dying plants shall be replaced by the applicant, as required, to maintain the integrity of the site plan.*
- f) *Landscape Plantings. All plant materials are to be indigenous to the region herein defined as the Somerset County region but in no event shall the plant materials be comprised of less than 50 percent indigenous species.*

5. Lighting.

- a) *All lighting fixtures and foot-candle standards for parking areas and recreation facilities shall be consistent with the standards outlined by the Illuminating Engineering Society of North America (IESNA).*
- b) *A lighting plan prepared by a qualified professional shall be provided with site plan applications.*
- c) *The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the Borough Engineer and Land Use Board.*
- d) *All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated during the hours of operation that occur after sunset.*
- e) *Lighting shall be shielded so as to prevent glare from adversely impacting surrounding properties.*

6. Signage.

a) Signage shall be in accordance with Article IV, Zoning §23-40.17 and Attachment 2 of the Land Development Code, except as modified herein.

b) Wall signage

- 1. Self-Storage Facilities shall be permitted one wall sign not to exceed 80 square feet in area.**
- 2. Residential principal uses shall be permitted one wall sign not to exceed 8 square feet.**

c) Freestanding Signage

- 1. Electric Vehicle Charging Stations for public use shall be permitted one freestanding sign subject to compliance with Article IV, Zoning §23-40.17 and Attachment 2 of the Land Development Code as enumerated in this section. Notwithstanding the foregoing, the minimum setback required for such freestanding sign shall be 10 feet.**
- 2. A property sign, identifying the property address, shall be permitted subject to compliance with Article IV, Zoning §23-40.17 and Attachment 2 of the Land Development Code as enumerated in this section. Notwithstanding the foregoing, the minimum setback required for such freestanding sign shall be 10 feet.**

SECTION 6. 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 7. 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 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 provision 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 8. If any 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 9. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 10. This ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in accordance with the laws of the State of New Jersey.

Introduced: April 26, 2022

Adopted: May 24, 2022



Nancy A. Bretzger, RMC
Municipal Clerk



Gregory Skinner
Mayor