

**BOROUGH OF MENDHAM**  
MORRIS COUNTY, NEW JERSEY

**ORDINANCE #08-2020**

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY,  
AMENDING CHAPTER 215, ZONING, OF THE BOROUGH CODE PURSUANT TO THE CONDITIONS OF  
APPROVAL OF THE BOROUGH'S SETTLEMENT OF ITS AFFORDABLE HOUSING LITIGATION**

**WHEREAS**, the Borough of Mendham entered into a settlement agreement with Fair Share Housing Center ("FSHC") to settle its affordable housing declaratory judgment action entitled In the Matter of the Application of the Borough of Mendham, Docket No. MRS-L-1637-15 (the "Mendham DJ Action"), which settlement agreement was approved by the Court by Order on Fairness and Preliminary Hearing issued on February 3, 2020, by the Honorable Michael C. Gaus, J.S.C.; and

**WHEREAS**, as a condition of approval, the Borough is required to create a realistic opportunity for the construction of low- and moderate-income housing on land that is available for development to meet its fair share obligation under the New Jersey Fair Housing Act and the constitutional obligation to provide affordable housing; and

**WHEREAS**, the Borough may satisfy this requirement, in part, through the use of overlay zones that allow for additional development options if the current property is redeveloped in the future; and

**WHEREAS**, the Borough wishes to create such an overlay for Block 18.01, Lot 5, more commonly known as the Daytop property, which underlying zoning remains in effect and does not change as a result of this overlay ordinance; and

**WHEREAS**, the Borough has not entered into an agreement with any perspective developer or made any promises or assurances, nor is the Borough obligated to develop the property for this overlay use, as it is an alternate zoning available to the property owners.

**THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Mendham, County of Morris, State of New Jersey, as follows:

**SECTION 1.** Chapter 215, Zoning, of the Borough Code is hereby amended to create new Article XVIII, Affordable Housing Overlay Zone, to read as follows:

**Article XVIII Affordable Housing Overlay - AHO Zone**

**§ 215-62 Purpose**

The purpose of the AHO Affordable Housing Overlay Zone is to create a realistic opportunity for the construction of low-and moderate-income housing in Mendham on land that is available 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. This Overlay Zone is applied pursuant to N.J.A.C. 5:93-4.3(b) whereby a municipality granted a durational adjustment for lack of water or sewer shall be required to apply overlay zoning which permits inclusionary development if adequate water and/or sewer become available to serve the site.

**§ 215-63 Location**

The AHO Zone applies to Block 18.01, Lot 5.

**§ 215-64 Permitted Uses**

Multi-family and Townhouse dwelling units for the provision of inclusionary affordable housing pursuant to "Low- and Moderate-Income Housing Requirements" below shall be permitted uses in the AHO Zone district in addition to those uses already permitted by the underlying zone district provided that sufficient sewer and water capacity is available to serve the units proposed.

**§ 215-65 Zone Standards**

- A. Inclusionary Residential Development may include the following residential uses:
- (1) Townhouses.
  - (2) Multi-family dwelling units.

- (3) Combination of townhouses and multifamily units.
- (4) Accessory structures and uses customary to residential developments such as pools, clubhouses, playgrounds, picnic areas, maintenance buildings, etc.

B. Area and Bulk Requirements:

AHO Zone Bulk Standards

Density (du/acre)	17.5
Min. Distances from Building	
Front to Building Front	80 ft.
Front to Building side	50 ft
Side to Building Rear	30 ft
Side to Building Side	20 ft
The wall containing a window to another wall containing a window	30 ft
Min. Building Depth Through the Short Axis	30 ft
Max Building Length Through the Long Axis	180 ft
Max. Height Apartment Building	3 Stories (40 ft)
Max. Height Townhouses	2.5 Stories (35 ft.)
Max. Height Accessory Buildings	2 Stories (30 ft)
Building Setback from the Edge of Paving or Curbing	15 ft
Parking Requirements	As Required by RSIS
Minimum Active Recreation Area	20% of developed area

**§ 215-66 Affordable Housing Requirements**

- A. Not less than twenty (20 percent) of the total number of units shall be affordable to low- and moderate-income households. Any computation resulting in a fraction of less than 0.5 shall be rounded down; any computation resulting in a fraction of more than 0.5 shall be rounded up. Said low- and moderate-income housing units shall be constructed on site.
- B. Any affordable housing units within the AHO Zone must meet state standards for affordable housing administration found in the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. and the Borough’s Affordable Housing Ordinance.

**§ 215-67 Parking Standards**

The Parking standards for the AHO Zone shall use standards of Residential Site Improvement Standards (RSIS). The following include General Standards for Parking Areas:

- A. The minimum parking provided shall be equal to 2.0 parking spaces per dwelling unit or as determined by RSIS.
- B. The minimum size of a standard parking space shall be 9' x 18' for 90° parking and 9' x 23' for parallel parking.
- C. Barrier-free parking spaces shall be distributed throughout the development in a ratio as required by N.J.A.C. s:23-7.1o.
- D. The minimum drive aisle/parking aisle width shall be twenty-four (24) feet. Where a split entrance driveway or private street is proposed, each one-way lane of travel shall be a minimum of fourteen (14) feet in width.

**§ 215-68 Buffer Requirements**

- A. The perimeter buffer shall be a minimum width of thirty (30) feet.
- B. The minimum landscaped width shall be twenty (20) feet and suitable for its function of site enhancement, screening, and control of climatic effects.
- C. The landscape buffer design should retain existing vegetation which is of high quality and appropriate density.

- D. Where existing vegetation is unsuitable, it shall be augmented or replaced by new plantings in accordance with a landscape plan submitted to and approved by the Planning Board.

**§ 215-69 Landscaping Requirements**

Landscaping must be provided to promote a desirable and cohesive natural environment for residents and neighboring properties. Landscaping must also be utilized to screen parking and, provide windbreaks for winter winds and summer cooling for buildings, streets, and parking, according to the following standards:

- A. All landscaping must have a two-year maintenance guarantee. If any planting material dies within two years of planting, it must be replaced the following planting season.
- B. Tree and shrub replacement. A limit of disturbance line shall be established during the review of an application for development taking into account grading, utility placement, and anticipated construction activities. Within the area encompassed by the limit of disturbance, there shall be no requirement for the replacement of trees. Within the area to be disturbed by construction activities, the redeveloper shall liberally install trees, shrubs, and groundcover in accordance with a landscape plan submitted to and approved by the Planning Board.
- C. Native plants required. In the design of the landscaping plan, no non-native or invasive species of plants shall be used.
- D. Landscaping should be used to accept and complement buildings and provide for climate control.
- E. Landscaping The protection of wooded areas, specimen trees, and existing vegetation suitable for landscaping within the redevelopment shall be a factor in determining the location of open space, buildings, underground services, paved areas, playgrounds, parking areas.

**§ 215-70 Other requirements remain in effect**

All other regulations and requirements of the underlying zone not in conflict with these provisions shall remain in effect.

**SECTION 2.** This Ordinance may be renumbered for the purpose of codification.

**SECTION 3.** 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.

**SECTION 4.** All ordinances of the Borough of Mendham that are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 5.** The Borough Clerk is directed to give notice at least ten days prior to a hearing on the adoption of this ordinance to the Morris 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).

**SECTION 6.** This ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; (3) filing of the final form of adopted ordinance by the Clerk with (a) the Morris 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; and (4) approval from the Court in connection with the Borough’s Mount Laurel affordable housing declaratory judgment action entitled, In the Matter of the Application of the Borough of Mendham, Docket No. MRS-L-1637-15.

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Introduced: June 10, 2020  
Public Hearing: July 27, 2020