



# Borough of Chatham

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## ORDINANCE #24-03

### AN ORDINANCE OF THE BOROUGH OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 165 OF THE BOROUGH CODE REGARDING LAND DEVELOPMENT REGULATIONS

**WHEREAS**, the Borough’s land use professionals have reviewed Chapter 165 of the Code of the Borough of Chatham, which sets detailed forth land development regulations applicable in the Borough; and,

**WHEREAS**, the Borough’s professionals have recommended several modifications, revisions and updates to Chapter 165, as well as with respect to a related provision in Chapter 204 of the Borough Code, to increase clarity and ensure that best practices in the critical areas of land use and development are followed in the Borough; and,

**WHEREAS**, the Borough Council has considered the matter and concurs that such updates are necessary and appropriate and will be in the best interest of the residents and taxpayers of Chatham.

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

#### **Section 1:**

Chapter 165-10 of the Code of the Borough of Chatham (“Borough Code”) is hereby amended with respect to certain enumerated definitions as follows (additions by underline, deletions by ~~strikethrough~~):

#### § 165-10 **Definitions.**

##### **FLOOR AREA FOR RESIDENTIAL DISTRICTS**

A. On any lot containing a one- or two-family residential dwelling, the sum of the gross horizontal areas of the several floors of a building which includes a walk-out basement, calculated by using the exterior faces of the exterior walls of all enclosed portions of the building. The following spaces shall be included in calculating residential floor area:

- (1) Any horizontal floor space contained in any halls, storage areas, and above-grade attached garages;
- (2) Any horizontal floor space which has more than 12 feet of clearance above it to the ceiling or roof shall be counted twice (doubled), and any horizontal floor space which has more than 20 feet of clearance above it to the ceiling or roof shall be counted three times (tripled); ~~and~~
- (3) Any horizontal floor space on a porch other than an open porch- and;
- (4) Any horizontal floor space in a walk-out basement.

B. The following shall not be included in calculating residential floor area:

- (1) Any horizontal floor space which does not have at least seven feet of clearance above the floor rafters, or floor to the ceiling, or floor to the bottom of a roof rafter, or floor to a ridge rafter.
- (2) Any horizontal floor space contained in a basement (see definition) or on a deck;
- (3) Below-grade attached garages;
- (4) Open porches and open porticos;
- (5) Accessory structures, including detached garages, which meet height and setback requirements or received variance relief.

**HALF-STORY**

A space under a sloping roof which has the line of intersection of the roof and wall face not more than three feet above the floor level, and in which space the possible floor area with head room of five feet or less occupies at least 40% of the total floor area of the story directly beneath.

**STORY**

The space between the upper surface of any floor and the next upper surface of the floor or roof above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

- ~~A. A half story is a portion of a building between the upper surface of a floor and the roof above where the enclosed space has an average clear height of not more than five feet.~~
- ~~B. To calculate the average clear height of a building level, height measurements shall be taken at each corner of the interior space and at the midpoint between each corner, from the upper surface of the floor to the next upper surface of the floor or roof above. The measurements shall then be averaged, and if the average is more than five feet, the building level shall be considered a story.~~
- ~~C. If gable and/or shed dormers are included on sloping roofs, the calculation of average clear height shall include height measurements at the interior corners of each dormer.~~
- ~~D. Story height may be calculated from accurately drawn building elevations where all front, back and side elevations are shown with dimensions and the upper surface floor and roof above for each story or half story are clearly and accurately depicted.~~

**WALK-OUT BASEMENT**

That portion of a building having 50% or less of its clear height below the average finished contact grade along the outside of the building. A walk-out basement shall be considered a “story” as that term is defined in this Section 165-10.

**Section 2:**

Chapter 165-14 of the Code of the Borough of Chatham (“Borough Code”) is hereby amended as follows (additions by underline):

**§ 165-14 R-1, R-2, R-3 and R-4 Residential Districts.**

- A. [UNCHANGED]
- B. [UNCHANGED]

C. [UNCHANGED]

D. [UNCHANGED]

E. Area and yard requirements

*NOTE: The chart in 165-14(E) reflecting area and yard requirements for detached dwellings is omitted (including notes), and shall remain unchanged.*

(1) Side, front and rear yards.

(a) There shall be two side yards, each at least 12 feet wide or 15% of the lot width, whichever is greater, except that on a corner lot the exterior side yard shall be at least 30 feet in width. However, on lots less than 80 feet wide, a one-story, ground floor addition attached to a dwelling lawfully existing on or before May 1, 2007, may be permitted to extend into an interior side yard, provided that such extension shall be set back at least nine feet from the side property line. For churches and schools and other permitted uses, there shall be two side yards, each at least two feet in least dimension for each one foot of height of such a building, provided that each side yard shall not be less than 30 feet.

(b) There shall be a front yard of at least one foot in depth for each one foot of height of the principal building; provided, however, that no front yard shall be less than 30 feet in depth (except as noted in this provision), and provided further, however, that the building shall not extend nearer to a fronting street line than the average distance of setbacks of the nearest building or buildings, other than accessory buildings, within 200 feet of each side line of said lot and fronting on the same side of the street. In cases where the prevailing setbacks are generally consistent within 200 feet of each side line of said lot, the front yard setback shall be within five feet of the average prevailing setback and may be less than 30 feet, but no less than 20 feet in depth. Coverage shall not exceed 30% of any front yard area as measured to the front building line.

(c) There shall be a yard at least 1.5 feet in least dimension for each one foot of height of a dwelling, and for other types of principal buildings the rear yard shall be at least two feet in least dimension for each one foot of height of such principal building; provided, however, that no rear yard shall be less than 30 feet.

(d) Porticos (as defined in § 165-10) that are added to an existing landing and stairs and that do not extend more than five feet beyond the existing outside face of the exterior front wall of a permitted dwelling shall be exempted from the front yard setback requirement.

(e) Attached garages with doors facing public streets shall be set back a minimum of three feet from the front building line for single-car-width garages and five feet for two-or-more-car garages. The garage setback shall be measured from the front façade of the principal building only which does not include a front stoop, landing and stairs, portico or any other structures attached to the front façade of the principal building. For corner lots, attached garages that face a public street shall face the street associated with the side façade of the principal structure.

(2) No private garage or other accessory building located in the rear yard shall be placed nearer to a rear or side property line than four feet. No garage or other accessory building shall be placed nearer than 10 feet to a rear property line which serves as a neighbor's side property

line. No private garage or other accessory building shall be placed nearer to a main street property line than 60 feet, nor nearer to a side street property line than 30 feet. Nothing herein contained, however, shall prevent the construction of a private garage as a structural part of a dwelling, provided that, when so constructed, the garage walls shall be regarded as any other walls of the main building in applying to coverage, front, side, and rear yard requirements of this chapter.

F. [UNCHANGED]

G. [UNCHANGED]

H. [UNCHANGED]

I. [UNCHANGED]

**Section 3:**

Chapter 165-22 of the Borough Code is hereby amended as follows (additions by underline, deletions by ~~striketrough~~):

**§ 165-22 Area, yard and building requirements for business districts.**

*NOTE: The chart in 165-22 reflecting area and yard requirements for business dwellings is omitted shall remain unchanged except for footnote 1, which is amended as follows:*

<sup>1</sup> See § ~~165-164B(17)~~ 165-163D(3) of this chapter.

**Section 4:**

Chapter 165-77 of the Borough Code is hereby amended as follows (additions by underline, deletions by ~~striketrough~~):

**§ 165-77 Fences and sight triangles.**

A. [UNCHANGED].

B. Notwithstanding the provisions of Subsection A hereinabove, the following provisions of this chapter shall be met:

(1) Buffer areas shall meet the requirements specified in § ~~165-164B(17)~~ 165-163D(3).

(2) Off-street parking, loading, driveway areas shall meet the requirements specified in § 165-82A.

(3) Swimming pools shall be fenced as specified in § 165-88D.

(4) Any fence situated within an officially designated Fire District shall comply with all other applicable codes and ordinances.

(5) Sight easements shall be required at intersections, in addition to the specified right-of-way width, in which no grading, planting or structure shall be erected or maintained higher than two feet in height above the edge of the roadway, except for street signs, fire hydrants and light standards. The sight easement is defined as that area outside the street right-of-way which is bounded by the intersecting street sidelines and a straight line connecting sight points, one located on each of the two intersecting street side lines at a point 25 feet from the point of street line intersection, either actual or projected. Such easement dedication

shall be expressed on the site plan as follows: "Sight easement conveyed for the purposes provided and expressed in the Land Development Ordinance of the Borough of Chatham". After approval of an application for development calling for a sight easement, applicant shall prepare an easement satisfactory to the Board and have it executed and recorded.

**Section 5:**

Chapter 165-102 of the Borough Code is hereby amended as follows (additions by underline, deletions by ~~strikethrough~~):

§ 165-102 **Construction, maintenance, lighting and design.**

A. [UNCHANGED].

B. ~~Design guidelines~~ Sign design. ~~To the maximum extent possible, signs~~ Signs shall adhere to the following design guidelines:

- (1) On buildings designed for commerce, signs ~~should~~ shall fit in the existing features of the facade, such as when facade bands of decorative moldings create natural frames for signs. Signs ~~should~~ shall be aligned with signs on adjacent storefronts.
- (2) On lots with buildings built as residences but now put to commercial use, ~~freestanding signs shall be the preferred sign standard. If a wall sign is proposed, it shall be limited to one small identification panel at each public entrance and if illuminated, it shall be externally illuminated.~~
  - (a) ~~Freestanding signs are preferred. If a sign must be placed on such a building, it should be limited to one small identification panel at each entrance.~~
  - (b) ~~In all zone districts, external illumination of signs is preferred.~~
- (3) ~~Identification of the business should be the only message on the principal sign. Verbiage may include three of the following: the business name, the street address, the telephone number, the website address, a short product identifier, and/or a logo or emblem. Secondary signs in windows or the front door may inform about products sold or services rendered.~~
- (3) (4) ~~Good legibility communicates~~ Signs shall be legible so as to communicate a sign's message quickly and easily. ~~The clearer the type style, the~~ and more readily it will be understood.
- (4) (5) ~~Signs shall provide a~~ Color contrast of colors to greatly influence legibility. ~~The~~ As an example, the strongest impact occurs with a dark background, and a dark and muted background helps a sign fit more naturally into older buildings, especially if the sign's colors complement those of the building's materials.
- (5) (6) ~~Window Signs~~ signs shall be painted or provided on windows are more legible in pale paint or gold leaf for greater legibility.
- (6) Signs shall be in harmony and consistent with the architecture of the building and relate to the features of the building in terms of location, scale, color, lettering, materials, texture and depth. Signs shall not be dominant but shall be proportionate and shall complement the building, existing signs and surroundings.

**Section 6:**

Chapter 165-148.2 of the Borough Code is hereby amended as follows (additions by underline, deletions by ~~striketrough~~):

§ 165-148.2 **Institutional uses.**

- A. [UNCHANGED].
- B. [UNCHANGED].
- C. [UNCHANGED].
- D. [UNCHANGED].
- E. [UNCHANGED].
- F. Required buffers: Any setback adjacent to a residential use or zone shall be densely planted with a minimum fifteen-foot-wide buffer strip in accordance with § ~~165-164B(17)~~ 165-163D(3).
- G. [UNCHANGED].
- H. [UNCHANGED].
- I. [UNCHANGED].
- J. [UNCHANGED].

**Section 7:**

Chapter 165-160 of the Borough Code is hereby amended as follows (additions by underline, deletions by ~~striketrough~~):

§ 165-160 **Applicability to types of applications.**

- A. [UNCHANGED].
- B. [UNCHANGED].
- C. Site plan review is not required or may be waived as follows:
  - (1) Board approval of a site plan shall not be necessary for a detached single-family or two-family dwelling unit used solely for residential purposes and its accessory building(s) on a single lot;
  - (2) The Borough Zoning Official may waive the review of a site plan when the application is limited to the construction or modification of signs for an existing use and where such signs meet the requirements of Article XIII of this chapter;
  - (3) The Planning Board may waive the review of a site plan in connection with an application for change of permitted use as provided under § 165-157D and E;
  - (4) ~~The Planning Board or the Zoning Board of Adjustment, as the case may be,~~ Borough Zoning Official may waive the review of a site plan if the construction is for a permitted use, is of no more than 100 square feet of additional floor area and/or the construction of no more than two additional parking spaces.

D. [UNCHANGED].

E. [UNCHANGED].

**Section 8:**

Chapter 204-4 of the Borough Code is hereby amended as follows (additions by underline):

§ 204-4 **Exterior maintenance.**

A. [UNCHANGED]

B. The exterior of the premises and all structures thereon shall be maintained in a clean, safe and sanitary condition and shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises. It shall be the duty of the owner, operator or occupant to keep the premises free from nuisances, unsanitary conditions and hazards, which include but are not limited to the following:

- (1) Rubbish: brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris, stormwater discharge and ice;
- (2) Natural growth: dead and dying trees or other natural growth that, by reason of rotting or deteriorating condition or storm damage within 50 feet of a structure on an adjacent property or public right-of-way, constitutes a hazard to persons or structures in the vicinity thereof;
- (3) Ground surface hazards and unsanitary conditions: holes, excavations (except in areas of active construction), breaks, projections, obstructions, icy conditions, stormwater runoff and discharge and uncleared snow which are accessible to and are used by the general public;
- (4) Dead and dying trees and limbs or other natural growth that, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard and/or a potential hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions;
- (5) Loose and overhanging objects and accumulations of ice and snow that, by reason of location above ground level, constitute a danger of falling on persons in the vicinity thereof;
- (6) Ground surface hazards or unsanitary conditions, holes, excavations, breaks, projections, obstructions, icy conditions, stormwater runoff and discharge, uncleared snow, excretions of pets and other animals on paths, walks, driveways, parking lots and parking areas and other parts of the premises which are accessible to and used by persons on the premises. All such holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery; and
- (7) Sources of rodent harborage and infestation.

C. [UNCHANGED]

D. [UNCHANGED]

E. [UNCHANGED]

F. [UNCHANGED]

G. [UNCHANGED]

H. [UNCHANGED]

I. [UNCHANGED]

**Section 9:**

All other provisions of Chapters 165 and 204 of the Borough Code that have not been amended herein remain in full force and effect.

**Section 10:**

Pursuant to N.J.S.A. 40:55-D-64, after introduction of this Ordinance, it shall be referred to the Chatham Borough Planning Board for the review required by the Municipal Land Use Law, N.J.S.A. 40A:55-1 et seq., prior to the hearing on adoption of this Ordinance.

**Section 11:**

*Repeal of Inconsistent Provisions.* All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

**Section 12:**

*Severability.* The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 13:**

*Codification.* This Ordinance shall be a part of the Borough Code as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Borough Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Borough Code in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Borough Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**Section 14:**

This Ordinance shall take effect upon passage, adoption, and publication in the manner prescribed by law.

**Certification and signatures on page 9**

<b>Name</b>	<b>Motion</b>	<b>Second</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
<b>Mathiasen</b>						
<b>Hargrove</b>						
<b>Hay</b>						
<b>Koronkiewicz</b>						
<b>Strickland</b>						
<b>Treloar</b>						



**Introduced: April 8, 2024**

**Adopted: May 13, 2024**

**Attest:**

**BOROUGH OF CHATHAM**

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Vanessa L. Nienhouse, RMC, CMC  
Borough Clerk

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Carolyn Dempsey  
Mayor

**CERTIFICATION**

I, Vanessa L. Nienhouse, Borough Clerk for the Borough of Chatham, County of Morris, State of New Jersey, do hereby certify this is a true and correct copy of an Ordinance that was read on second reading and approved by the Borough Council at its Regular Meeting held on May 13, 2024.

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Vanessa L. Nienhouse, Borough Clerk