

ORDINANCE NO. 03-2024

**ORDINANCE OF THE TOWNSHIP OF LIVINGSTON ADOPTING A
NEW SECTION 170-104.15 R-5S RESIDENCE OVERLAY DISTRICT OF
THE TOWNSHIP CODE**

WHEREAS, it is an Objective of the 2018 Master Plan “to continue to provide a range of affordable or economically attractive options for housing and services.... and housing meeting applicable State affordability requirements”; and

WHEREAS, a Residential Inclusionary Multifamily Overlay District with a set-aside of not less than 20% for low- and moderate- income households would advance both that Objective of the Master Plan and the on-going efforts of the Township to provide affordable housing; and

WHEREAS, the adoption of this R-5S Ordinance in furtherance of the Township’s commitments and obligations in settlement of the declaratory action in the Superior Court captioned in “In the Matter of the Township, of Livingston, Essex County” Docket No. ESX-L-4849-15; and

WHEREAS, the Township Council deems it appropriate and in the best interests of the Township to adopt a new §170-104.15 R-5S Residence Overlay District as set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Livingston in the County of Essex, State of New Jersey, that:

Section 1. §170-104.15 R-5S Residence Overlay District is adopted as follows:

§170-104.15. R-5S Residence Overlay District.

A. Purpose and Permitted Principal Uses.

To permit the development of Block 100 Lots 15 and 16 under an overlay district with a maximum of 160 residential units to be owned or leased for a multifamily residential use, provided, that such development includes 20% of the total units set-aside as units affordable to low and moderate income households and deed restricted developed and administered in accordance with the Township’s Affordable Housing Regulations set forth in Article XIV of Chapter 170 of the Township Code. (§170-125 through §170-128).

B. Permitted Accessory Uses

- (1) An indoor or outdoor clubhouse and recreational facility ("clubhouse"). The clubhouse may include amenities that are necessary for operation of the development or are commonly found in such multifamily residential developments, such as, but not limited to, leasing and management offices, a health and recreational facility, a common area for use of the residents and their guests, storage rooms, concierge service, a business center and such other amenities that are customarily contained in the clubhouse of a residential development of this size and nature.
- (2) Structures for temporary garbage and recycling storage and pickup, including, but not limited to, dumpsters. Each Residential Building may include one or more trash chutes in enclosed areas of the building, all separate from individual dwelling units and access hallways, for temporary placement of waste or recycling material before removal by property custodial or maintenance or workers.
- (3) A maintenance building for snow removal and other maintenance equipment customarily required for a residential development of this size and scope.
- (4) Utility structures serving the development, including but not limited to a sanitary sewer pump station, generators, cable television and telephone boxes, manholes, fire hydrants, electrical transformers, and other utilities that are customary to a residential development of this type.
- (5) One of the residential units may be restricted to utilization as living accommodations for an individual (and members of that person's immediate family) while such person is employed to perform custodial or maintenance services for the development, which unit, if so used, shall be exempt from the age restriction.
- (6) An outdoor swimming pool, patio area, and roof top deck which may include other customary recreational amenities, for the use of the residents and guests of the development. Ground level amenities may be screened from W. Mt. Pleasant Avenue using a fence or wall with a maximum height of 6 feet.
- (7) Off-street parking in accordance with the standards set forth below, including a structured parking deck not exceeding four (4) levels, with parking permitted on the top level of the deck.
- (8) Signs and signage in accordance with the standards set forth below.

C. Required zoning standards.

The following zoning standards shall apply in the R-5S District:

- (1) Minimum tract area: 5 acres.
- (2) Minimum Building Setbacks:
 - (a) From W. Mt. Pleasant Avenue right-of-way line: 50 feet, except that building facades fronting on and within 100 feet of W. Mt. Pleasant Avenue are required to step back a minimum of 10 feet from the building edge at the fourth floor.
 - (b) From Microlab Rd. and Daven Ave. right-of-way lines: 20 feet
 - (c) Side and Rear Yard Setbacks from property line: 15 feet
- (3) Balconies, bay windows, roof overhangs, chimneys and similar appurtenances may extend not more than 4 feet into a required setback.
- (4) Building Heights:
 - (a) Measurement: Building height shall be measured from either finished first floor containing dwelling units to the highest point of a flat roof or to the midpoint of a sloping roof. Finished loft space built into the attic shall not be counted as a story. Parking structure height shall be measured from the finished first floor parking level to the finished floor of the top parking level.
 - (b) Maximum number of stories or parking levels: 4
 - (c) Maximum building or parking structure height: 50 feet
 - (d) Height Exceptions:
 - i. Parapets and screening may extend 5 feet above the permitted building height. Appurtenances, such as mechanical equipment, and similar ancillary and customary structures may extend 10 feet above the permitted building height.
 - ii. Ingress and egress structures, not exceeding the minimum number required by the applicable Fire Code, such as elevator penthouses and stair towers associated

with providing access to a roof top amenity may extend up to 18 feet above the permitted building height, provided that such structures are set back a minimum of 10 feet from any building façade wall facing a public roadway, excluding any interior façade wall or courtyard, and further provided that the area of any such structure shall not exceed 2,500 square feet.

iii. Accessory structures associated with a roof top amenity such as pergolas, gazebos, lighting, and similar structures may extend up to 12 feet above the permitted building height, provided that such structures are set back a minimum of 10 feet from any building façade wall facing a public roadway, excluding any interior façade wall or courtyard, and further provided that the total area of all such structures shall not exceed 4,000 square feet or 10% of the roof area, whichever is greater.

- (5) Maximum accessory building height: Shall be measured from either the highest point of a flat roof or to the finished first floor to mid-point of a pitched roof.
 - (a) Clubhouse: 30 feet if it is a detached free-standing Clubhouse.
 - (b) Maintenance building: 20 feet
 - (c) Any other accessory structure: 15 feet.
- (6) Minimum Set Backs for Accessory Building:
 - (a) 20 ft. from any other building, excluding parking garages.
 - (b) 10 feet from any internal roadway or parking area.
- (7) Maximum building coverage: 40%.
- (8) Maximum impervious coverage: 80%.
- (9) Maximum number of dwelling units: 160.
- (10) Bedroom Mix: The unit mix for market rate units shall consist of one-bedroom, studio, and two-bedroom layouts. The unit mix for market rate units shall consist of a minimum of 40% one-bedroom and studio. Up to 45% of each bedroom configuration shall be permitted to contain dens.

Dens shall not be permitted to be utilized as sleeping accommodations. Dens shall not contain closets and shall be open to the adjacent space. No residential unit shall have more than two bedrooms, except for three-bedroom low- and moderate-income units as required pursuant to N.J.A.C. 5:80-26.1 et seq., as amended or as superseded by other requirements of state law or regulations.

(11) Off-Street Parking Standards:

- (a) Off-street parking shall be provided in accordance with the New Jersey Residential Site Improvement Standards (N.J.A.C. 5:21, as amended).
- (b) Subject to Planning Board approval, a portion of the required parking requirement may be met through a shared parking arrangement for off-premises parking on contiguous property or other property which, in the reasonable discretion of the Planning Board, is deemed adequate after considering such factors as the distance from the property to be served, the convenience and safety of pedestrians, vehicular access, adjacent land uses, etc., and provided that the applicant either owns such off-premises parking area(s) or holds such area(s) under irrevocable lease having a term of at least 50 years. If such area(s) is so used for off-street parking, the requirements herein set forth shall apply, except that the Planning Board may require additional landscaping or buffering.
- (c) Accessible parking spaces provided shall be not less than as required by the New Jersey State Uniform Construction Code Barrier Free Subcode (N.J.A.C. 5:23-7.10)
- (d) Electric Vehicle (EV) parking spaces shall be provided in compliance with New Jersey statutes and regulations, including but not limited to the Mandatory Statewide Electric Vehicle Ordinance.
- (e) Surface parking shall be set back a minimum of 10 feet from street right-of-way line or from a property line that does not face a street, and 10 feet from any Residential Building but excluding the building entrance way.

(12) Sign regulations:

- (a) Signage shall be provided in accordance with §170-90 except as

otherwise authorized herein.

(b) Monument Signs:

- i. One monument sign may be installed on each roadway frontage, specifically W. Mt. Pleasant Avenue and Microlab Road, which signs may indicate the street number and/or development name and such other information as the Planning Board may approve.
- ii. Monument signs shall be located at least five feet from the right-of-way line of E. Mt. Pleasant Avenue or Force Hill Road as applicable, and shall be located so as not to create a sight distance obstruction.
- iii. Each monument sign may be double-sided and shall be no larger than 36 square feet per side. The height of each monument sign shall not exceed five feet and the over-all length shall not exceed 12 feet.
- iv. Monument signs may be illuminated. Any sign illumination shall be limited to either indirect lighting or diffused lighting, and the source of any lighting shall be shielded in such a manner as to not be visible from the street or any adjoining residential property.

(c) Building or canopy signs. One facade sign not exceeding 20 square feet in area shall be permitted to identify the main entrance to the principal building, as approved by the Planning Board as part of the required site plan approval.

(d) On-site directional and traffic safety signage shall be permitted subject to appropriate limitations as determined by the Planning Board during the required site plan approval process.

(e) Temporary signage: Beginning from the commencement of on site development activity, two non-illuminated signs advertising the development may be installed on the property. Each such sign shall be subject to a maximum size of 32 square feet, maximum height of six feet, and a minimum setback of 20 feet, and any such sign shall be removed not later than thirty days after the issuance of the Certificate of Occupancy.

(13) Sustainability.

- (a) The buildings, to the greatest extent possible, shall incorporate green building features and incorporate features such as: low flow water saving fixtures, enhanced building envelope insulation and sealing, double-pane windows, energy efficient appliances, LED lighting, energy saving thermostats, EV charging stations, and enhanced air quality in common spaces. Materials present on site, such as concrete and asphalt, may be recycled and re-used in place of mined aggregates during construction.

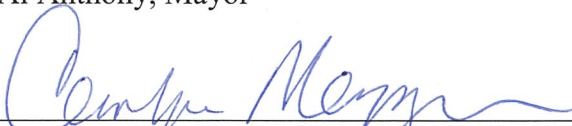
(14) Phasing. Development of the tract may be done in one or more phases at the discretion of the developer.

Section 2. Severability. The various sections, clauses, provisions and portions of this Ordinance are severable, and if any section, clause, provision or portion is declared invalid or unconstitutional by a court of competent jurisdiction all the remainder of this Ordinance shall remain in full force and effect.

Section 3. This Ordinance shall take effect upon final passage and 20 days from publication in accordance with law.



Al Anthony, Mayor



Carolyn Mazzucco, RMC, Township Clerk

Introduced: January 22, 2024
Adopted: February 26, 2024