

## TOWN OF MORRISTOWN

### ORDINANCE O-8-2024

#### **ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 30, "LAND DEVELOPMENT ORDINANCE," OF THE CODE OF THE TOWN OF MORRISTOWN TO REVISE THE REQUIREMENTS FOR THE LOCATION OF OFFSITE LOW AND MODERATE HOUSING**

**WHEREAS**, Objective 1.4 of the Master Plan is to continue to preserve and create a range of housing choices that are affordable to low-, middle, and moderate-income households, and

**WHEREAS**, Chapter 30-6A of the Land Development Code establishes an Affordable Housing Overlay Zone, which creates a realistic opportunity for the construction of low and moderate income housing as land becomes available for development and redevelopment in the Town of Morristown, thereby addressing some of the constitutional housing obligations of the Town of Morristown under New Jersey's Fair Housing Act, N.J.S.A. 52:27D-301 et seq., the rules of the New Jersey Council on Affordable Housing ("COAH"), N.J.A.C. 5:93, and the Mount Laurel doctrine, and

**WHEREAS**, Ordinance No. O-2-2024, adopted at a regularly scheduled meeting of the Town Council of the Town of Morristown on February 13, 2024, repealed and replaced Chapter 30 entitled "Land Development Ordinance; and

**WHEREAS**, Ordinance No. O-2-2024 erroneously included prior language that, at the discretion of the approving agency (Planning Board, Zoning Board of Adjustment or Redevelopment Agency), up to fifty (50%) of the required affordable units may be constructed off site, which was removed from Chapter 30, Section 30-6.A.3 via Ordinance No. O-19-2023, adopted at a regularly scheduled meeting of the Town Council of the Town of Morristown on August 8, 2023; and

**WHEREAS**, the vast majority of the off-site affordable housing constructed over the past 10 years is built in the 2nd Ward, where land costs are least expensive.

**NOW, THEREFORE BE IT ORDAINED**, by the Town Council of the Town of Morristown, County of Morris, State of New Jersey, being the governing body thereof, that Chapter 30, Land Use Regulations of the Town of Morristown Ordinances be and hereby are amended to read as follows:

#### **SECTION 30-6.A.3: LOW AND MODERATE INCOME HOUSING REQUIREMENTS**

- a. Neither the Planning Board, nor the Board of Adjustment, nor the Town Council on an appeal of a final decision of the Board of Adjustment, nor the Town Council in adopting and implementing a redevelopment plan shall approve a development application in any zone district or area in need of redevelopment or rehabilitation for a residential development or a mixed use development with five (5) or more dwelling units, unless a minimum fifteen percent (15%) of the total number of dwelling units on rental projects and a minimum twenty percent (20%) of the total number of dwelling units on fee simple projects are set-aside and sold or rented to very-low, low-, and moderate income

households, as defined by COAH in its applicable regulations or an equivalent controlling New Jersey state agency, as may be amended from time to time. ~~Such affordable units, subject to notice to FSHC and the Special Master, may be provided off-site through an agreement with a bona fide established non-profit organization. In such cases, off-site units developed by non-profit organizations shall be undertaken in accordance with an agreement that identifies, among other things, the location of proposed off-site units. Up to fifty percent (50%) of the total obligation, not to exceed six (6) affordable units, may be provided off-site and shall be phased in accordance with N.J.A.C. 5:93-5.6(d). Any land use approval involving off-site affordable units shall be conditioned upon execution of a Developer Agreement that contains terms consistent with the standards in this paragraph. All fractional obligations shall be rounded to the closest whole number. The approving agency may, in its sole discretion, consider a deviation from these requirements if the applicant demonstrates that the development is not economically feasible absent a deviation.~~

- b. Nothing in this section precludes the Town from imposing an affordable housing set-aside requirement on a development that is not required to have an affordable housing set-aside pursuant to this section, when such imposition is consistent with N.J.S.A 52:27D-331(h) and other applicable law.
- c. This affordable housing set-aside requirement shall not apply to developments containing fewer than five (5) dwelling units.
- d. All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.

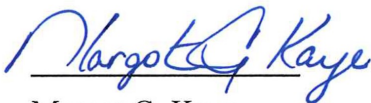
**BE IT FURTHER ORDAINED**, if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

**BE IT FURTHER ORDAINED**, any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**BE IT FURTHER ORDAINED**, This Ordinance shall take effect upon passage.

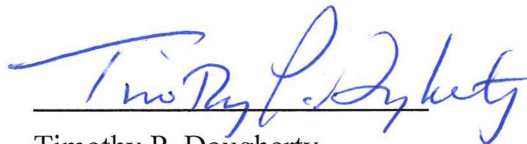
**ATTEST:**

**ADOPTED:**



Margot G. Kaye,

Town Clerk



Timothy P. Dougherty,

Mayor

Date: 4/10/2024