

ORDINANCE NO. 29-2023

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON BY REPEALING THE CURRENT SECTION 170-104.13 IN ITS ENTIRETY AND ADOPTING A NEW SECTION 170-104.13, R-5Q RESIDENCE OVERLAY DISTRICT.

WHEREAS, the Township Council previously adopted § 170-104.13, R-5Q Residence Overlay District in furtherance of the Township’s commitment to the provision of affordable housing as part of its settlement with the Fair Share Housing Center; and

WHEREAS, the Township Council now finds it appropriate to amend the Township Code to repeal and replace § 170-104.13 to further protect the Township against future rounds of affordable housing required compliance;

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

Section 1. This Ordinance is being adopted to provide opportunity for an increase of affordable housing beyond that required pursuant to the declaratory judgement of the Superior Court in “In the Matter of the Township of Livingston, Essex County” Docket No. ESX-L-4849-15.

Section 2. The current § 170-104.13 of the Township Code is hereby repealed in its entirety.

Section 3. A new § 170-104.13, establishing the R-5Q Residence District on property identified as Block 6100 Lot 5 on the Tax Maps of the Township of Livingston, commonly known as 70 S. Orange Avenue, is hereby added as follows:

§ 170-104.13 R-5Q Residence Overlay District.

- A. Purpose. The purpose of the R-5Q Residence Overlay District is to permit inclusionary multi-family residential development of not more than 222 units, except as set forth in paragraph D (4) ; including a 20% set-aside of affordable units as required by §170-104.Q.C. Except as required for affordable units, no more than 10% of the market rate units shall have 3 bedrooms, and no more than 50% of the 2 bedrooms market rate units shall have dens.
- B. Permitted principal uses and densities. Property in the R-5Q District may be

developed for inclusionary multi-family residential use at a maximum of 222 units.

C. Affordable housing units.

- (1) Twenty percent (20%) of the total number of residential units shall be units affordable to low and moderate income households, and these units shall be deed-restricted pursuant to requirements of N.J.A.C. 5:80-26.1, et seq., ("UHAC") as amended or superseded by other requirements of State law and regulations. A minimum of fifty percent (50%) of the affordable units shall be affordable to low income households, including thirteen percent (13%) of the total affordable units that shall be affordable to very low income households.
- (2) The balance of the required affordable units shall be affordable to moderate income households. The development shall comply with the requirements of N.J.A.C. 5:97-3.14 or similar regulations regarding accessible and adaptable affordable units.
- (3) Township Code §§ 170-126 to 170-128 shall apply; provided that if those provisions of the Township Code impose more stringent requirements than the UHAC regulations, then the UHAC regulations shall apply.

D. Principal building. Only one (1) principal building shall be permitted.

- (1) The principal building shall contain residential units, which may include dens and lofts so long as they are not utilized for sleeping accommodations. The provisions of this Chapter 170 permitting operation of professional offices and residence-based businesses in residence zones shall not apply in the R-5Q District. Except that work from home space within the units is permitted as well as co-working space in the common area.
- (2) The building shall be served by one (1) or more elevators for the use of residents and visitors.
- (3) One (1) additional residential unit may be provided and restricted to occupancy by an individual (and members of such individual's household, if any) responsible for building maintenance/operations, which unit may be included towards the 20% set aside obligations of this ordinance §170-104.13 (C), provided such Tenant satisfies those statutory requirements of UHAC
- (4) The building shall include on each floor, all separate from individual dwelling units and access hallways and as specifically reviewed and approved by the Planning Board, one (1) or more trash chutes in enclosed areas and/or one (1) or more other enclosed areas for temporary storage of waste and recyclable materials prior to being conveyed to the maintenance building garbage and recycling storage and pick-up facility by property janitorial and/or maintenance workers.

- (5) The principal building entrance and lobby shall be oriented toward South Orange Avenue or on the westerly façade, as approved by the Planning Board.

E. Permitted accessory buildings, structures and uses. The following accessory buildings, structures and uses are permitted in the R-5Q Residence District when developed for multi-family residential use:

- (1) Facilities within the principal building for operation of the development and/or use by residents that are commonly found in multi-family residential developments; such as, but not limited to, leasing and management offices, health, fitness and recreational facilities, a common area for use of the residents of the development and their guests, storage space for residents, a machine room or rooms, bicycle storage, concierge service, a business center and such other amenities customarily provided in a multi-family building of this size and type.
- (2) Off-street parking in accordance with §170-94 and §170-104.13.F.(10).
- (3) Signs in accordance with §170-104.13.F.(11).
- (4) An outdoor swimming pool and patio area and compatible recreational activities for the use of residents and guests of the development. Such a pool may be located in a side or rear yard, in a center courtyard, on the roof of the building or atop its parking level; as may be gardens.
- (5) Utility structures serving the development, including but not limited to a sanitary sewer pump station, cable television and telephone boxes, manholes, fire hydrants, electrical transformers, an emergency generator, and other utilities that are customary to a residential development of this size and type.
- (6) A one-story maintenance building for storage of property maintenance equipment and materials customarily required for a development of this size and type; as well as for temporary storage of waste and recyclable materials for pickup. Such waste and recyclable materials shall be brought from the principal building to the maintenance building or trash enclosure by property janitorial and/or maintenance workers and shall not be stored elsewhere on the property.
- (7) Outdoor garbage & recycling enclosure
- (8) An outdoor dog run and play area.

F. Required zoning standards. The following zoning standards shall apply to development in the R-5Q District:

- (1) Minimum tract area: 9.0 acres fronting on South Orange Avenue,

including any acreage required to be dedicated to Essex County

- (2) Vehicular access and egress shall be at the South Orange Avenue frontage.
- (3) Minimum principal building setbacks:
 - (a) From the South Orange Avenue right-of-way line 100 feet.
 - (b) From the easterly property line: 50 feet.
 - (c) From the westerly property line: 45 feet.
 - (d) Rear yard: 70 feet.
 - (e) Bay windows, roof overhangs, chimneys and similar appurtenances (in order to achieve architectural relief) may extend not more than two (2) feet into a required setback; however, balconies may extend up to five (5) feet.
- (4) Minimum maintenance building setbacks:
 - (a) From South Orange Avenue right-of-way line 150 feet.
 - (b) From other property lines 30 feet.
- (5) Any swimming pool or other recreational area not on a roof shall not be located closer than
 - (a) 150 feet from the South Orange Avenue right-of-way line
 - (b) 30 feet from rear or side lot lines.
- (6) Parking spaces shall be
 - (a) Set back from the principal building: a minimum of 5 feet.
 - (b) Set back from South Orange Avenue right-of-way line: a minimum of 25 feet.
- (7) Maximum building heights
 - (a) Principal building: 4 stories over parking and not to exceed 65 feet, measured from the front entrance facing the street to the highest point of the roof, height exceptions shall be as outlined in Section 170-87-S(3)
 - (b) A maintenance building permitted by §170-104.Q.E.(6): 25 feet.
- (8) Maximum building coverage: _45%.

- (9) Maximum impervious coverage: 65%.
- (10) Off-street parking:
 - (a) Off-street parking shall be provided in accordance with § 170-94.
 - (b) The minimum number of spaces shall be as required under the Residential Site Improvement Standards (N.J.A.C. 5:21-4.14), including any credits allowed for EV charging stations.
 - (c) Accessible parking spaces shall be provided not less than in accordance with the New Jersey State Uniform Construction Code Barrier Free Subcode (N.J.A.C. 5:23-7.9).
 - (d) Tandem parking spaces may be provided within the principal building when both spaces in a pair are reserved and assigned vehicles of the same residential unit.
 - (e) Not less than 5% of the parking spaces shall be equipped with electric vehicle supply stations [and not less than 15% of the parking spaces shall be Make-Ready equipped]. At least one (1) Supply station shall be immediately adjacent to an accessible parking space. Increases in supply stations shall be provided in no less numbers than required by State law and regulations.
- (11) Sign regulations.
 - (a) Entrance ground sign:

One (1) entrance ground sign (double faced) providing the street number and/or the community name may be installed at the South Orange Avenue entrance with a minimum set back of the greater of five (5) feet from the front street right-of-way-line or five (5) feet from the sidewalk. It shall have a maximum over-all size of forty eight (48) square feet per face, which shall not include base and architectural frame and a maximum height, including any base, of eight(8) feet.

Any illumination of the entrance ground sign shall be limited to either indirect lighting, ground mount or diffused lighting, and the source of any lighting shall be shielded in such a manner as to not be visible from the abutting street or any adjoining residential property.
 - (b) Onsite directional and traffic control signs. Permitted as approved by the Planning Board as part of site plan approval. Additional on-site signage may be added to the off-street parking as approved by the Township Construction Official pursuant to §170-94.

(c) Wall Signs

One illuminated building mounted wall sign where letter height shall not exceed 36” or a total of 60 square feet

(d) Canopy Signs

One illuminated canopy mounted sign is permitted atop the entrance. The letter height shall not exceed 36” and the sign shall not exceed a total of 60 square feet

(12) Design standards. The following design standards shall apply to development in the R-5Q District:

(a) Architectural treatment.

[1] The principal building facades shall consist of any combination of brick, finished masonry, stone, Hardi Plank or similar material, wood, and vinyl approved by the Planning Board. Stucco shall not be permitted.

[2] Any accessory building façade shall include the same materials and shall be of a color scheme and design consistent with the principal building.

(b) Landscaping and buffering. No trees shall be removed other than pursuant to a Tree Removal Permit. Existing vegetation shall be preserved where possible, and replaced and supplemented with plantings and other landscaping materials approved by the Planning Board.

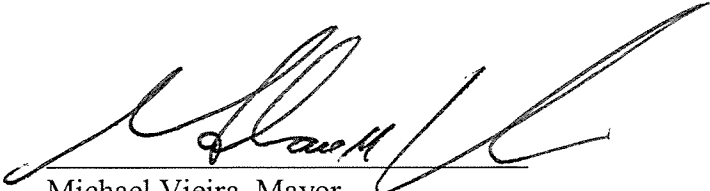
(c) Mechanical equipment. Rooftop and ground-mounted mechanical equipment shall all be completely screened except for the southerly side..

(d) Sustainability. The building shall incorporate green building features and shall be designed to a standard similar to New Jersey Energy Star, incorporating 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 during construction in place of mined aggregates.

Section 4. Except as hereby amended and supplemented, the Code of the Township of Livingston shall remain in full force and effect.

Section 5. 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 6. This Ordinance shall take effect upon final passage and 20 days from publication in accordance with law.



Michael Vieira, Mayor



Carolyn Mazzucco, RMC
Township Clerk

Introduced: September 7, 2023

Adopted: October 16, 2023