

**ORDINANCE 2022-01**

**AN ORDINANCE OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 163 OF THE CODE OF THE BOROUGH OF CHESTER, ENTITLED LAND DEVELOPMENT AND PROCEDURES, INCLUDING ARTICLE IX ZONING-ZONE REQUIREMENTS AS PERTAIN TO SECOND AND THIRD FLOOR APARTMENTS AND OFFICE USES IN THE B-1 HISTORIC BUSINESS ZONE**

**WHEREAS**, municipalities are empowered to make, amend, repeal, and enforce its ordinances pursuant to statute (N.J.S.A. 40:48-1, et seq.); and

**WHEREAS**, the Mayor and Council of the Borough of Chester have the authority to enact land use ordinances in the interests of public health and safety in accordance with the New Jersey Land Use laws; and

**WHEREAS**, the Mayor and Council of the Borough of Chester strive to maintain ordinances that are clear and unambiguous; and

**WHEREAS**, a question has arisen as to permitted uses on the third floor of properties located within the B-1 Historic Business Zone; and

**WHEREAS**, municipalities are required by statute to follow specific procedures for the passage of ordinances (N.J.S.A. 40:49-2 et seq.); and

**WHEREAS**, Part II (General Legislation) Chapter 163 (Land Development and Procedures) Article IX (Zoning- Zone Requirements) Section 163-72 (Business Zone), Paragraph B (Historic Business Zone) of the Borough Code defines permitted uses; and

**WHEREAS**, Section 163-72(B)(1)(a)[3] provides as permitted use, “Apartments, provided that such apartment use shall be limited to the second floor of structures permitted in Subsection B(1)(a), above.” without reference to third floors; and

**WHEREAS**, the Mayor and Council of the Borough of Chester wish to amend Part II (General Legislation), Chapter 163 (Land Development and Procedures) Article IX (Zoning- Zone Requirements) Section 163-72 (Business Zone), Paragraph B (Historic Business Zone) of the Borough Code) of the Borough Code to address three story structures in the Historic Business Zone,

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Borough of Chester, County of Morris, State of New Jersey that the Borough Code is hereby amended as follows:

**SECTION 1.** Part II (General Legislation) Chapter 163 (Land Development and Procedures) Article IX (Zoning- Zone Requirements) Section 163-72 (Business Zone), Paragraph B (Historic Business Zone) Subparagraph (1)(a) is hereby amended to include the following:

[4] Guest rooms, hotels, bed and breakfast accommodations, provided that such short term overnight guest stays do not exceed thirty (30) days, such use shall be limited to the third floor of structures permitted in Subsection B(1)(a), above.

Note: Existing residential apartments in the B-1 Historic Business Zone conforming to zoning as of the date of adoption of this paragraph that have been made nonconforming as a result of this paragraph shall be permitted to continue and remain without an appeal to the Board of Adjustment for changes including but not limited to alteration, renovation and substantial rehabilitation, provided however, that the number of apartments shall remain unchanged and that such changes shall conform to Historic District requirements. If building expansion is proposed, such expansion shall conform to the area, yard, and setback requirements applicable to the zone.

**SECTION 2.** If any Chapter, Article, Section or Subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction such decisions shall not affect the remaining portions of this Ordinance.

**SECTION 3.** All ordinances or rules or regulations of the Borough of Chester, which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 4.** This ordinance shall take after passage and appropriate publication according to law.

Dated: April 5, 2022

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Janet Hoven, Mayor

Attest: \_\_\_\_\_

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Denean Probasco, Municipal Clerk

#### NOTICE OF FINAL ADOPTION

Notice is hereby given that the Ordinance published herewith was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Chester, in the County of Morris, New Jersey, held on the 15<sup>th</sup> day of February, 2022 and the same came up for final passage at a remote meeting of said Borough Council on the 5<sup>th</sup> day of April, 2022 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law. By order of the Borough Council of the Borough of Chester, County of Morris and State of New Jersey.

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Denean Probasco, Municipal Clerk