

**ORDINANCE No. 2024 -01**

**AN ORDINANCE OF THE BOROUGH OF CHESTER, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING THE BOROUGH CODE, PART II (General Legislation), CHAPTER 163 (Land Development Procedures), ARTICLE II (Definitions) SECTION 163-3 (Definitions) PARAGRAPH A (Terms Defined); ARTICLE IX (Zoning, Zoning Requirements), SECTION 163-71 (Residential Zones), PARAGRAPH A (Requirements for all Residential Zones), SUBPARAGRAPH (3) (Permitted Accessory Uses); SECTION 163-71 B (RDH-Residential High Density Zone), SUBPARAGRAPH 4 (Conditional Uses); SECTION 163-77 (Enforcement and Administration), PARAGRAPH B (Certificate of Occupancy), SUBPARAGRAPH (2) (Certificate of Occupancy); AND SECTION 163-75 (Conditional Uses) TO CLARIFY HOME OCCUPATIONS, HOME OFFICES AND PRIVATE PROFESSIONAL OFFICES AND REQUIRE A ZONING CERTIFICATE FOR THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.**

**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**, 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**, municipalities are empowered to adopt and amend land use rules and regulations for the orderly development and planning of the municipality via land use and zoning ordinances; and

**WHEREAS**, Part II (General Legislation), Chapter 163 (Land Development Procedures) of the Borough Code provides definitions for "Home Occupations" and "Private Professional Office" which been interpreted to be applicable to Accessory Structures; and

**WHEREAS**, Part II (General Legislation), Chapter 163 (Land Development Procedures) of the Borough Code does not require the issuance of a zoning permit as a precondition for a certificate of occupancy; and

**WHEREAS**, a concern has been raised that in light of the interpretation of Home Occupations and Private Professional Office without the issuance of a zoning certificate to assure zoning compliance, accessory structures may be altered for Home Occupations and Private Professional Offices but used for residential occupancy;

**WHEREAS**, the Mayor and Council of the Borough of Chester have an interest in the proper and orderly development of the properties within the Borough consistent with Part II (General Legislation), Chapter 163 (Land Development Procedures) of the Borough Code and the Master Plan; and

**WHEREAS**, to accomplish those goals, the Mayor and Council of the Borough of Chester hereby seek to amend the Borough Code, PART II (General Legislation), CHAPTER 163 (Land Development Procedures), ARTICLE II (Definitions) SECTION 163-

3 (Definitions) PARAGRAPH A (Terms Defined); ARTICLE IX (Zoning, Zoning Requirements), SECTION 163-71 (Residential Zones), PARAGRAPH. A (Requirements for all Residential Zones), SUBPARAGRAPH (3) (Permitted Accessory Uses); SECTION 163-71 B (RDH-Residential High Density Zone), SUBPARAGRAPH 4 (Conditional Uses); SECTION 163-77 (Enforcement and Administration), PARAGRAPH B (Certificate of Occupancy), SUBPARAGRAPH (2) (Certificate of Occupancy); and SECTION 163-75 (Conditional Uses) to clarify Home Occupations, Home Offices, and Private Professional Offices and require a zoning certificate for the issuance of a Certificate of Occupancy; TO CLARIFY HOME OCCUPATIONS, HOME OFFICES AND PRIVATE PROFESSIONAL OFFICES AND REQUIRE A ZONING CERTIFICATE FOR THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

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

**SECTION 1.** PART II (General Legislation), CHAPTER 163 (Land Development Procedures), ARTICLE II (Definitions) SECTION 163-3 (Definitions) PARAGRAPH A (Terms Defined) is hereby amended to revise the definition of Home Occupation and Private Professional Office and add a definition of Home Office as follows:

#### HOME OCCUPATION

Any gainful employment or occupation of one or more members of the resident family which will constitute either entirely, or partly, the means of livelihood of such member or members, and which shall be conducted as clearly secondary or accessory to the primary residential use of the principal structure. Such occupation may be pursued within the principal dwelling structure. Home occupations are normally in the field of work of the artisan and may include such activities as dressmaking, milliner, watch making, electrical, radio repair and carpentry, where no person outside the family is employed full-time. The retail sales of goods and services in structures designed or altered to make such activities the primary use of any structure shall not be construed hereunder to be a home occupation and is not permitted as part of a home occupation. No greater than 25% of the total floor area, not to exceed 500 square feet of residence shall be used for said occupation, and the home occupation shall be conducted entirely within the principal dwelling. No display of products or advertisements is visible from the street and no material, equipment or commercial vehicle is stored except in fully enclosed buildings.

#### HOME OFFICE

An office within a principal dwelling, occupying no greater than 25% of the total floor area of a principal dwelling or a maximum of 500 square feet, whichever is less, not including the floor area of a basement or cellar, that is used by one or more residents of the principal dwelling for work at home when no visitation by clients or the public is involved.

#### PRIVATE PROFESSIONAL OFFICE

The business office of a member of a recognized, learned profession for self-employment A local license for the regulation of any such occupation shall not be indicative of professional standing. A private professional office shall be within the principal dwelling and combined with the residence. A private professional office shall be the individual office of only one member, and one member only, without associates or partners and with office personnel limited to not more than two; the area of said office shall not exceed 25% of the total floor area of the principal dwelling, or not to exceed 500 square feet, whichever is less, which shall include the offices of: attorneys, artists, architects, authors, doctors and physicians, computer consultants, dentists, land surveyors, ministers, musicians, optometrists, professional engineers and such other similar professional occupants which may be so designated by the Board upon finding that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof, and that the practice of such occupations shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to any greater extent than as would be the professional activities listed herein. A professional's office for such occupations and professional activities listed herein employed by an off-site employer shall not be considered a Private Professional Office, but rather a Home Office.

**SECTION 2.** PART II (General Legislation), CHAPTER 163 (Land Development Procedures), Article IX (Zoning, Zone Requirements), SECTION 163-71 (Residential Zones), PARAGRAPH A (Requirements for all Residential Zones), SUBPARAGRAPH (3) (Permitted Accessory Uses); is hereby amended and supplemented by repealing existing Subsections "(c) Home Occupation" and "( d) Private Professional Office" and replacing Subsections (c) and (d) with following new Subsection 163-71.A(3)(c), as follows:

(c) Home Office.

**SECTION 3.** PART II (General Legislation), CHAPTER 163 (Land Development Procedures), Article IX (Zoning, Zone Requirements), SECTION 163-71 (Residential Zones), PARAGRAPH B (ROH-Residential High Density Zone), SUBPARAGRAPH 4 (Conditional Uses), is hereby amended and supplemented by adding the following two new Subparagraphs 163-71.B.(4)(c) and (d), as follows:

(c) Home Occupation.

(d) Private Professional Office.

**SECTION 4.** PART II (General Legislation), CHAPTER 163 (Land Development Procedures), Article IX (Zoning, Zone Requirements), SECTION 163-77 (Enforcement and Administration), PARAGRAPH B (Certificate and permits), SUBPARAGRAPH (2) (Certificate of Occupancy) is hereby amended and supplemented to read as follows:

B. Certificates and permits.

- (1) Zoning permits.
  - (a) Zoning permits shall hereafter be secured from the Zoning Officer prior to construction, erection or alteration of any structure or part of a structure or use of a structure or land. All requests for zoning permits shall be made in writing by the owner or his authorized agent and shall include a statement of the use or intended use and shall be accompanied by a plan of the plot showing thereon the exact size, shape, and location of all proposed structures and such other information as may be necessary to provide for the enforcement of this chapter, together with the appropriate fee as set forth in Chapter 127. The zoning permits shall be granted or denied within 10 days from the date that a written application is filed with the Zoning Officer.
  - (b) Site plan review required; Exception. Site plan review and approval shall be required as a condition for issuance of a zoning permit for any developments except that individual lot applications for a one- or two-dwelling-unit building shall be exempt from site plan approval.
- (2) Certificate of occupancy.
  - (a) Certificates of occupancy shall be issued and signed by the Construction Official in the manner prescribed in the New Jersey Uniform Construction Code. No certificate of occupancy shall be issued until the Zoning Officer certifies that the construction, erection, alteration or change of use of any structure has received all required Land Use Board approvals, or when no Land Use Board approval is required for construction, erection, alteration, use, or change of use of a structure , the Zoning Officer shall certify that such activity is a permitted activity in accordance with the provisions of this Chapter.
  - (b) Upon serving notice of violation by the Zoning Officer to the owner of a property with respect to any building, land or use thereof, as specified in this chapter, a new certificate of occupancy shall be required for any further use of such building or land.

**SECTION 5.** PART II (General Legislation), CHAPTER 163 (Land Development Procedures), Article IX (Zoning, Zone Requirements), SECTION 163-75 (Conditional Uses).and PARAGRAPH E (Reserved) are hereby amended and supplemented to read as follows:

§ 163-75 Conditional uses.

No permitted conditional use shall hereafter be established or altered in the Borough of Chester until conditional use approval has been obtained from the Chester Borough Land Use Board. The conditional uses set forth in this Chapter are permitted subject to the following use limitations imposed by this section under the terms and specifications herein set forth. Whereas the necessity for certain specific uses is recognized and at the same time appreciating the fact that they or any one of them may be or become inimical to the public health, safety and general welfare of the community if located without due consideration to the existing conditions and surroundings, the following standards and procedures are hereby established. Conditional use permitted in this Chapter that are not specifically enumerated herein below shall be subject to the conditional use standards identified in the subsections below.

E. Home Occupation and Private Professional Office Standards:

- (1) No additional plumbing shall be permitted unless required by the Board of Health, Plumbing Subcode or other applicable regulation.
- (2) No overnight occupancy shall be permitted for this use; and
- (3) Parking requirements shall be determined by the Land Use Board.
- (4) On-site parking shall be provided in accordance with Residential Site Improvement Standards (N.J.A.C. 5:21-et seq.), and Section 163-80 of this Chapter.

**SECTION 6.** PART II (General Legislation), CHAPTER 163 (Land Development Procedures), ARTICLE XII (Zoning - Signs) SECTION 163-89 (Permitted Signs), PARAGRAPH A (Residential districts), SUBPARAGRAPH 2 (Home Office or Occupation Signs), is hereby repealed and replaced in its entirety to read:

- (2) Home occupation and private professional office signs. An attached sign not to exceed 10 inches high by 24 inches wide describing a permitted home occupation. Only one such sign is permitted.

**SECTION 7.** The Borough Clerk is directed to submit this ordinance to the Chester Borough Land Use Board for review and comment before final hearing.

**SECTION 8.** The Borough Clerk is directed to submit this ordinance to the Morris County Planning Board giving notice of this action.

**SECTION 9.** 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 10.** 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 11.** This ordinance shall take after final passage and appropriate publication according to law.

Dated: February 20, 2024

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Janet Hoven, Mayor

Attest:

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Robin Ghebreal, RMC, Municipal Clerk

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**LEGAL NOTICE OF PENDING ORDINANCE**

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 2<sup>nd</sup> day of January 2024. It will be further considered for final passage after public hearing thereon, at a meeting of said Mayor and Council to be held in the Chester Borough Hall, 50 North Road, in said Borough, on February 20, 2024 at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office in said Borough Hall building to members of the general public who shall request the same.

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Robin Ghebreal, RMC, Municipal Clerk

