

TOWN OF BOONTON
ORDINANCE 21-21

ORDINANCE TO AMEND AND IMPLEMENT VARIOUS ZONING DESIGNATIONS FOR LAND USE IN THE TOWN ZONING AND LAND USE ORDINANCE (CHAPTER 300) AND THE TOWN ZONING MAP TO CREATE THE TO- TOWNHOUSE OVERLAY DISTRICT AND THE STANDARDS ASSOCIATED WITH THEM IN THE TOWN OF BOONTON, NJ

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council Town of Boonton, County of Morris, State of New Jersey, that Chapter 300 “Zoning and Land Use” of the Town Code of the Town of Boonton is hereby amended or established as follows:

Section 1. Section 300-104.3 “Zone Districts” of the Code of the Town of Boonton shall be amended to increase the number of zone districts by one (1) and to add the following new zone overlay district to the list of zone districts:

TO Townhouse Overlay District

Section 2. Chapter 300, Attachment 3, “Zone Map” of the Code of the Town of Boonton shall be amended to create an Overlay District on Block 30 Lot 14 and retain the underlying R-2A District Zoning, as shown on the accompanying Map.

Section 3. Chapter 300, Attachment 1, “Schedule of Requirements” of the Code of the Town of Boonton shall be amended to include a new TO Zone category, which shall identify Townhouses as the principal permitted use, and shall state ‘See § 300-104.3’ for area and bulk requirements.

Section 4. A new Section 300-104.3 entitled “TO Townhouse Overlay District” of the Code of the Town of Boonton shall be established to read as follows:

§300-104.2 TO Townhouse Overlay District.

- A. Purpose. The purpose of the TO Overlay Zone is to create an opportunity for the development of a non-residential Town owned property consistent with adjacent residential uses.
- B. Permitted principal uses.
 - (1) Townhouses.
- C. Permitted accessory uses.
 - (1) Off-street parking in accordance with Article XX and applicable provisions of Part 3 of this chapter.
 - (2) Private garages.
 - (3) Fences and walls
 - (4) Ancillary recreation elements, such as a swimming pool, tennis courts and other similar uses to only serve the residents of the complex.
 - (5) Clubhouses to serve only the residents of the complex.
 - (6) Signs, in accordance with the Boonton Sign Ordinance, Chapter 233.

D. Affordable Housing.

- (1) All townhouse developments constructed in the TO Townhouse Overlay District shall be required to set aside a minimum percentage of units for affordable housing. Where units will be for sale, the minimum set aside shall be twenty percent (20%). Where units will be for rent, the minimum set aside shall be fifteen percent (15%). When calculating the required number of affordable units, any computation resulting in a fraction of a unit shall be rounded upwards to the next whole number.
- (2) All affordable units to be produced pursuant to this section shall comply with the Town's Affordable Housing Ordinance at Chapter 70 of the Town Code, as may be amended and supplemented, the Uniform Housing Affordability Controls ("UHAC")(N.J.A.C. 5:80-26.1 et seq.), or any successor regulation, and the Town's Housing Element and Fair Share Plan, as may be amended from time to time. This includes, but is not limited to, the following requirements for all affordable units:
 - (a) Low/Moderate Income Split: A maximum of 50% of the affordable units within each bedroom distribution shall be moderate-income units and a minimum of 50% of the affordable units within each bedroom distribution shall be low-income units. At least 13% of all restricted rental units shall be very low-income units, which shall be counted as part of the required number of low-income units within the development.
 - (b) Bedroom Mix: If the development is not age-restricted, the following bedroom mix shall apply:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - [2] At least 30% of all low- and moderate-income units shall be two bedroom units;
 - [3] At least 20% of all low- and moderate-income units shall be three bedroom units; and
 - [4] The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - (c) Deed Restriction and Affordability Control Period: All affordable units shall be deed restricted for a minimum period of at least 30 years. The affordability control period on all restricted ownership and/or rental units shall commence on the date the initial certified household takes title to the unit, and shall continue to run for at least 30 years. Pursuant to N.J.A.C. 5:80-26.5(e) the affordability controls shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units. At the conclusion of the 30 year term, the deed restrictions and affordability controls shall continue to remain in effect until such time as the municipality elects to release the unit from the Deed Restrictions and Affordability Controls by formal adoption of an ordinance within a reasonable time after conclusion of the initial minimum 30 year term (the "Deed Restriction Period"). The affordability controls and deed restrictions shall not automatically expire. At the conclusions of the initial 30 year term, the municipality may unilaterally extend the deed restrictions and affordability controls for an additional 30 year consecutive term by formal adoption of a resolution in accordance with N.J.A.C. 5:80-26.25 of the Uniform Housing Affordability Controls ("UHAC"). During the Deed Restriction Period, sale, use, and rental of each affordable unit shall be subject to the Uniform Housing Affordability Controls ("UHAC"), set forth at Title 5, chapter 80, subchapter 26, subchapter 26 (N.J.A.C. 5:80-26.1, et seq.) as may be amended from time to time hereafter. All sales and rentals of affordable units shall be on approved uniform affordable housing deeds and/or leases as set forth in the appendices of the UHAC.
 - (d) Administrative Agent: All affordable units shall be administered by a qualified Administrative Agent paid for by the developer.

- (e) Other Affordable Housing Unit Requirements: Developers shall also comply with all of the other requirements of the Town's Affordable Housing Ordinance, including, but not limited to, (1) affirmative marketing requirements, (2) candidate qualification and screening requirements, (3) integrating the affordable units amongst the market rate units, and (4) unit phasing requirements. Developers shall ensure that the affordable units are dispersed between all of the buildings on its site, and shall identify the exact location of each affordable unit at the time of site plan application.

E. Requirements for townhouses.

- (1) Area and density requirements.
 - (a) Lot area. There shall be a minimum lot area of 10,890 square feet.
 - (b) Density. There shall be no more than 6 total units.
 - (c) Building coverage. The total ground floor area of all buildings shall not exceed 50% of the lot area.
- (2) Setback requirements.
 - (a) No building shall be located within 25 feet of a public street.
 - (b) Side Yard Setback- Minimum of 10 feet
 - (c) Rear Yard Setback- Minimum of 10 feet
 - (c) No townhouse dwelling structure shall have more than three continuous attached townhouse dwelling units with the same setback, and variations shall be at least four feet.
- (4) Building requirements.
 - (a) Height. No building shall exceed a height of 2 1/2 stories or 36 feet, whichever is the lesser.
 - (b) Units per building. No townhouse dwelling structure shall contain more than six townhouse dwelling units.
 - (c) Building plans and elevations shall show a variation in design of units and structures to be achieved by types of roof, heights of eaves and peaks, building materials and architectural treatment of the building facade. This shall be compatible with the existing character of the neighborhood.
 - (d) Each townhouse dwelling unit shall be separated from adjoining units by a fire wall constructed in accordance with the Town Building Code.
- (5) Townhouse dwelling unit requirements.
 - (a) Each townhouse dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath, a basement or cellar for storage and utilities, an enclosed garage and a separate kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with the exception of the dining room.
 - (b) Minimum floor area. Each townhouse dwelling unit shall have a minimum floor area exclusive of attic, basement and cellar floors of 600 square feet plus 200 square feet for each habitable room, exclusive of living rooms, dining rooms or dinettes, kitchens and bathrooms.
 - (c) No room within the townhouse dwelling unit intended for human habitation shall be located in a cellar, basement or attic except that a cellar or basement may contain a family room or recreation room.
 - (d) Each townhouse dwelling unit shall have individual private outside front and rear entrances.
 - (e) Each townhouse dwelling unit shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar conveniences. No central or common laundry or similar facilities intended for two or more dwelling units shall be permitted in a townhouse development.

- (f) Each townhouse dwelling unit shall have an individual private yard area or open patio or court adjoining the unit of at least 10 feet in depth. Steps, roof overhangs, bay windows and similar features shall not project into such area more than three feet. Each private yard area, patio or court shall be effectively screened from adjoining units by a fence, wall, or natural screening in order to provide a reasonable degree of privacy.
- (6) Accessory buildings.
 - (a) Setbacks. Accessory buildings shall meet the street setback of the principal building and shall be at least 10 feet from a principal building and 6 feet from a property line or other accessory building
 - (b) Height. The maximum height of an accessory building shall be 15 feet.
 - (c) Design. Architectural design and materials used in the construction of accessory buildings shall conform to those used in the construction of principal buildings.
- (7) Off-street parking.
 - (a) Off-street parking facilities shall be provided in accordance with Article XX and townhouse standards in the Residential Site Improvement Standards (RSIS). All parking areas shall be designed in accordance with applicable provisions of Part 3 of this Chapter.
 - (b) All required parking must be provided on-site.
 - (c) Garages may be counted as parking space.
 - (d) Parking is prohibited in the front yard.
 - (e) Adequate fire and emergency access must be provided subject to the Town of Boonton Fire Department.
 - (f) On-site parking shall not be provided for any use or to any party other than a resident or visitor of the site, nor shall parking areas be used for any purpose other than parking.
 - (g) Signage shall be provided where parking spaces are to be reserved for residents. Visitor parking shall be signed and painted for each space designated for such a purpose.
 - (h) Adequate parking facilities for accessibility to people with mobility impairments shall be provided as required by the Americans with Disabilities Act (ADA).
- (8) Open Space, Landscaping, and Buffers.
 - (a) At least 10% of the gross site area shall be devoted to common open space for passive or active recreation, or conservation.
 - (b) There shall be a comprehensive landscape plan prepared by a certified landscape architect which shall detail the location, type, size and any planting note for the proposed landscape materials. This plan shall be subject to the approval of the Planning Board.
 - (c) A landscape buffer shall be provided where a townhouse development abuts a residential or nonresidential use or zone. The buffer shall be a minimum of 6 feet in width and 4 feet in height at planting. The buffer shall provide a year-round visual screen and minimize adverse impacts from the site on adjacent properties.
 - (d) No use or structure, including parking or loading areas, shall be permitted within the required buffer area, but the Planning Board may, upon a finding of reasons thereof, permit a portion of a buffer area to be used for utility easements, or streets to ensure access to or from adjacent property, and the Board may also permit a portion of a buffer area to be used for detention or retention basin, provided that the basin is designed as a landscaping feature, and further provided that the landscaping plan for the buffer area is determined by the Planning Board to meet the objective of the buffer area.
 - (e) Active and passive recreational areas and other public and/or semipublic open space, such as courtyards, plazas, alleys and pedestrian walkways, shall be designed to promote use and enjoyment by residents of the development. Such areas shall be designed to utilize natural

features of the site, including existing vegetation, where possible, and shall be extensively landscaped with a wide variety of plant materials.

- (9) Lighting.
 - (a) Adequate lighting shall be provided for all common areas and pedestrian walkways.
 - (b) All outdoor lighting, including street lamps and accent lighting, should comply with “dark sky” standards intended to reduce light pollution. Dark sky standards require that lighting is downcast, illuminates only the intended areas, and does not cause disabling glare that affects driver safety and reduces the visibility of starry night skies.
 - (c) Lighting for the development must be contained on the property on which the development is located. There shall be no light spill onto adjacent property and glare shall be minimized.
 - (d) LED lighting shall be permitted in addition to all of the conditions of the land use ordinance standards for lighting.
- (10) Miscellaneous.
 - (a) Television antennas or dishes shall be limited to one master antenna. Multiple antennas or dishes may be installed on the rooftop provided they are not visible from the street level.
 - (b) Through-wall air-conditioning units that project beyond the building wall are not permitted.
 - (c) All trash and recyclables shall be stored in covered containers. They may be stored within private garages or outside of buildings. If the materials are stored outside, they must be kept in a permanent enclosure with a latching gate in a centrally located, concealed area approved by the Planning Board.
 - (d) Amenities restricted to the use of the residents and their guests are permitted subject to all applicable local and state requirements.
 - (e) Buildings containing dwelling units located above the second story and requiring a second means of egress pursuant to the Uniform Construction Code shall not utilize an attached external fire escape as one of the required means of egress.
 - (f) Internal walkways shall be provided to provide a pedestrian connection to any site development amenities, such as a clubhouse, recreational facilities, pools, etc.
 - (g) Internal walkways shall be a minimum of four (4) feet wide and shall be designed to comply with the requirements of the Americans with Disabilities Act (ADA).
 - (h) Fences shall be permitted at a maximum height of 6 feet and shall be situated and designed in accordance with §300-93.

Section 5. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 6. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Town of Boonton, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Town of Boonton are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 7. The Town Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Morris County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 8. After introduction, the Town Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Town of Boonton for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Town Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the

master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 9. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 10. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Morris County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Town Tax Assessor as required by N.J.S.A. 40:49-2.1.

The foregoing ordinance having been introduced and passed on first reading by the Mayor and Town Council of the Town of Boonton, County of Morris, State of New Jersey, on June 21, 2021 and then ordered to be published according to the law, will be further considered for final passage and adoption at a public hearing to be held at a meeting beginning at 7:30 p.m. on July 19, 2021 at the Town Hall, 100 Washington Street, Boonton, NJ 07005, when and where, or at such time and place to which said meeting may be adjourned. All persons interested will be given an opportunity to be heard concerning said ordinance.

Cynthia A. Oravits, RMC
Town Clerk