

BOROUGH OF ALLENTOWN
COUNTY OF MONMOUTH
STATE OF NEW JERSEY

ORDINANCE NO. 02-2023

AN ORDINANCE AMENDING CHAPTER 1: "GENERAL PROVISIONS" AND CHAPTER 28: "LAND DEVELOPMENT REGULATIONS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO UPDATE AND CORRECT CERTAIN DEFICIENCIES THEREIN FOUND DURING GENERAL CODE REVIEW

WHEREAS, the Borough of Allentown (the "Borough") employs General Code to maintain and codify its adopted Ordinances into the Revised General Ordinances of the Borough, also referred to as the Borough Code; and

WHEREAS, from time-to-time, General Code undertakes a review of the Borough Code to identify errors and omissions that may be contained therein; and

WHEREAS, General Code has advised the Borough of certain portions of the Borough Code that need to be updated and/or amended;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Allentown, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Section 1-5 entitled "General Penalty" of Chapter 1 entitled "General Provisions" of the Revised General Ordinances of the Borough of Allentown is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

CHAPTER 1: GENERAL PROVISIONS

* * *

§ 1-5 GENERAL PENALTY.

~~Any municipality that chooses to~~ To impose a fine in an amount greater than \$1,250,000.00 upon an owner for violations of housing or zoning codes, the Borough shall provide a 30-day period in which the owner shall be afforded the opportunity to cure or abate the condition and shall also be afforded an opportunity for a hearing before a court of competent jurisdiction for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250,000.00 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

SECTION 2. Section 28-5.8 entitled "Conditional Uses" of Chapter 28 entitled "Land Development Regulations" of the Revised General Ordinances of the Borough of Allentown is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

§ 28-5.8 Conditional Uses.

On application and after public notice and hearing, the Planning Board shall have the power to authorize the issuance by the ~~Building Subcode Official~~ Zoning Officer of conditional use permits for any use for which § 28-10, Zoning, requires a conditional use permit (formerly referred to as a special use permit). In authorizing the issuance of a conditional use permit, the Board shall take into consideration the public health, safety, and welfare and shall prescribe such conditions and safeguards as it may deem appropriate in order that the result of this action shall, to the maximum extent possible, further the purpose of the ordinances of the Borough in general and the following specific objectives in particular:

- a. That all proposed structures, equipment and material shall be readily accessible for fire and police protection.
- b. That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- c. That the proposed use, on-site and off-site structures and improvements meet the requirements of this chapter, § 28-10, Zoning, § 22-13, Off-Tract and Off-Site Improvements, and § 28-7, Land Subdivision, of the Code of the Borough of Allentown.
- d. That, in addition to the above, in the case of any use located in, or directly adjacent to, a residential district:
 1. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the normal traffic of the neighborhood, and
 2. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or substantially impair the value thereof.
- e. That the Planning Board reviewing the specific application for a conditional use permit of

the types stated in § 28-10, Zoning, is satisfied that the specific criteria for conditional use approval as set forth therein is met.

- f. Any use allowed by conditional use permit shall be deemed to be a valid nonconforming use in the district in which such use is located provided that:
 1. The provision in this chapter under which such permit was issued is still in effect.
 2. Such permit was issued in conformity with the provisions of this chapter.
 3. Each permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.
 4. All conditions prescribed in connection with the issuance of such permit are still complied with.
- g. Where an ordinance requires site plan approval for the development proposed by the applicant for conditional use permit approval, the applicant shall also file a complete site plan application and the Planning Board shall consider the two applications simultaneously and approve or disapprove the applications within the time periods prescribed by this chapter.
- h. The Planning Board may require that conditional use permits be periodically renewed. Such renewal shall be granted following public notice and hearing, and may be withheld upon such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit if they have not been, or are no longer, being complied with. In such cases a period of 60 days shall be granted the applicant for full compliance prior to the revocation of the permit.
- i. In areas under development the Planning Board may authorize the issuance by the ~~Building Subcode Official~~ Zoning Officer of a temporary conditional use permit for not more than one year's duration for a structure or use not permitted by this chapter in the district in which it is to be located if such structure or use is deemed by the Board to be necessary to promote the desirable development of such areas; provided that such temporary permit shall only be issued subject to applicant providing adequate guarantees, including a bond in an amount to be approved by the Planning Board, that such structure or use will be terminated and removed at the end of the period specified, or of such extension thereof as may be granted upon application to the Board upon good cause shown and after due notice and public hearing.
- j. The provisions of paragraphs a. through i. above of this section shall apply to applications made to the Planning Board pursuant to N.J.S.A. 40:55D-76b.
- k. The Planning Board shall render its decision on the conditional use permit application within 95 days of complete conditional use permit and site plan applications being filed

with the administrative officer in accordance with the provisions of this chapter or within such further time as is consented to by the applicant. In those cases where the Planning Board has jurisdiction over the conditional use permit pursuant to N.J.S.A. 40:55D-76b the Board shall render its decision after receiving the Planning Board's review and recommendations, as to both the conditional use and site plan approval within 120 days after the date that the applicant has submitted a complete development plan with the administrative

SECTION 3. Section 28-10.2 entitled "Zoning Map" of Chapter 28 entitled "Land Development Regulations" of the Revised General Ordinances of the Borough of Allentown is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

§ 28-10.2 Zoning Map.

Map Adopted. The districts or zones established in § 28-10.1 are bounded and defined as shown on the map entitled "Zoning Map of the Borough of Allentown, Monmouth County, New Jersey" dated ~~June 17, 2019~~ September 1, 2020, and as may be amended which map is declared to be part of this chapter and found in Appendix A.

SECTION 4. Section 28-18.4 entitled "Pending Applications" of Chapter 28 entitled "Land Development Regulations" of the Revised General Ordinances of the Borough of Allentown is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

§ 28-18.4 Pending Applications.

~~All applications for minor and major subdivisions filed prior to the effective date of this chapter on which preliminary or final subdivision approval has not been granted shall be subject to the provisions of this chapter.~~

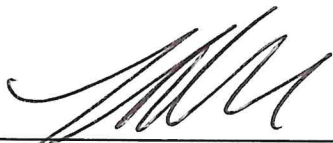
Notwithstanding any provision of law to the contrary, those development regulations which are in effect on the date of submission of an application for development shall govern the review of that application for development and any decision made with regard to that application for development.

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 Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Allentown are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 7. After introduction, the Borough Clerk is directed to submit a copy of the within Ordinance to the Planning Board of the Borough for its review under 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 Mayor & 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 8. This Ordinance shall take effect upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final adopted Ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.



THOMAS FRITTS, Mayor

ATTEST:



LAURIE A. ROTH, R.M.C

DATED: February 28, 2023

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