

**TOWNSHIP OF UPPER DEERFIELD**

**ORDINANCE 810**

**MODIFYING CHAPTER 405, ENTITLED, “ZONING AND DEVELOPMENT”, TO ADD AN R-3A RESIDENTIAL INCLUSIONARY ZONING DISTRICT IN FURTHERANCE OF THE FAIR HOUSING ACT OF 1985**

**WHEREAS**, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

**WHEREAS**, the Township Committee of the Township of Upper Deerfield are desirous of ensuring the proper implementation of the Fair Housing Act and associated rules through the adoption of land use regulations by the governing body; and

**WHEREAS**, the Township of Upper Deerfield desires to implement policies established by the New Jersey Supreme Court in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) to foster affordable housing opportunities for the production of dwellings and their occupancy by low and moderate income households.

**WHEREAS**, the Township Committee of the Township of Upper Deerfield recognize the need to adopt a new R-3A Residential Zoning District; and

**WHEREAS**, the Township Committee further recognizes the need to establish special standards to work in concert with the establishment of a Senior Inclusionary Housing District within the Redevelopment Plan (Rt. 77) of the Township of Upper Deerfield; and

**WHEREAS**, the Planning Board of the Township of Upper Deerfield has reviewed and made recommendations on this ordinance to the governing body.

**NOW THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Upper Deerfield, Cumberland County, New Jersey, as follows:

**Section 1.** §405-3, Terms Defined, shall be modified by adding the following definitions:

**AFFORDABLE HOUSING DEVELOPMENT** - A housing development with one or more components affordable to low and moderate income households (see Chapter 108) that is included in the Upper Deerfield Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

**DWELLING, QUADRAPLEX** - Four attached dwellings in one building in which each unit has two open space exposures and shares a common interior wall with one or two adjoining units, with separate ground floor access for each unit. Units are joined side to side, but are not located one above another.

SENIOR HOUSING – A residential development including accessory buildings and required or permitted social, cultural, medical and recreational facilities limited to certain age groups conforming to 42 U.S.C. §§3601–3619, the federal Fair Housing Amendments Act of 1988, as it may be amended or superseded.

**Section 2.** §405-4, Districts Enumerated, shall be modified by adding the following zoning district in between the R-3 Residential and the R-4 Residential districts listed:

R-3A Inclusionary Residential

**Section 3.** §405-5, Zoning Map, as amended, shall be further modified by replacing the R-3 Residential District with the R-3A Inclusionary Residential District on Block 1808, Lots 2, 3, 16 and 17 of the tax assessment maps of the municipality.

**Section 4.** §405-8, Schedule of District Regulations, as amended, shall be further modified by adding the R-3A Inclusionary Residential District following the R-3 Residential District and before the R-4 Residential District in accordance with the attached table, Appendix A.

**Section 5.** §405-55, Townhouses and multifamily dwellings, shall be revised to read as follows:

**§ 405-55. Townhouse, Multifamily Dwellings and Senior Housing.**

Townhouse or multifamily dwelling projects shall be permitted when, besides complying with the provisions of this section and the Schedule of District Regulations, the proposed project meets an affordable housing obligation as identified in the current adopted Housing Element and Fair Share Plan or other otherwise in the Land Use Plan Element of the Master Plan. All such projects shall comply with the following:

- A. Gross density for any townhouse, multifamily dwellings and/or senior housing development shall not exceed four units per acre, unless the development is 100% affordable or inclusionary development as defined in Chapter 108. One hundred percent affordable or inclusionary development shall be permitted a gross density of six units per acre.
- B. The maximum and minimum building standards as set forth in the Schedule of District Regulations shall apply to any such development.
- C. Primary site requirements.
  - (1) No block or grouping of townhouses and multifamily dwellings shall be closer than 35 feet to any other block or grouping, except for fee simple lots where other standards may apply (see Schedule of District Regulations or operative redevelopment plan as applicable).
  - (2) In senior housing development where townhouse and quadraplex dwellings are not intended or permitted to be on individual lots, the following building separation distances shall apply:

Requirement	Standard
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Requirement	Standard
Minimum distance from building front to building front	60 feet
Minimum distance from building front to building side	35 feet
Minimum distance from building front to building rear	60 feet
Minimum distance from building side to building rear	35 feet
Minimum distance from building rear to building rear	50 feet
Minimum distance from building side to building side	20 feet

The front of a building shall be considered that portion of a façade facing the street, residential access driveway, or parking lot. The rear of a building shall be that façade of a building opposite the front of the building. The sides of the building constitute the other remaining facades of the building.

- (3) No dwelling shall front upon an arterial or major collector street, as classified in the Township Master Plan.
  - (4) No building shall be closer than 30 feet to a tract boundary, excepting a guardhouse at the main entrance and no other structure shall be closer than 20 feet to a right-of-way.
  - (5) No parking space shall be closer than 12 feet to the building. This provision shall not be construed as to affect private parking in a residential dwelling driveway.
- D. Each ground floor dwelling unit shall be provided with a private yard area of not less than 500 square feet, which shall be screened by fencing, walls or shrubbery to a height of not less than six feet. Such fencing or screening requirements may be waived when decks, balconies or other suitable private, outdoor areas are provided.
- E. Building Design.
- (1) A development under this section shall maintain a continuity, compatibility and harmony of design and construction throughout. For townhouse development, no less than four dwelling units nor more than eight shall be included in one continuous attached block or grouping of units, exclusive of covered walkways between groupings. Multi-family dwellings shall be limited to eight dwellings on any one floor. Variations in townhouse facades within groupings or blocks of townhouses shall be required unless horizontal or vertical shifts or offsets are provided. In any development under this section, street furniture, signs, lighting facilities and other common elements of the site shall be of similar and compatible design.
  - (2) Direction signs shall be permitted upon review and approval of the Zoning Officer, when said signs do not exceed six square feet in area and will not create a visual obstruction for motorists.
  - (3) Natural topography and existing trees shall be maintained whenever possible and incorporated into the project design.
- F. Open space and recreation.

- (1) A minimum of 20% of the total area of a townhouse, multifamily or senior housing project, but not including any open land consisting of dooryards, buffer strips, parking areas and street rights-of-way, shall be designated for common recreational purposes. A multifamily project containing 10 or less units wherein land adjoining the units is owned in common ownership, either by the project owner or a homeowners' association in accordance with §405-62A(14), shall be exempt from providing 20% of the project in common open space or recreational area.
- (2) Not more than 50% of the recreational area shall include one or more of the following: a floodplain, areas with a slope of greater than 10%, watercourses, freshwater wetlands or other areas unsuitable for recreational purposes due to environmental considerations.
- (3) When required, however, no one recreational area shall be less than 10,000 square feet in area nor less than 100 feet in width at its narrowest dimension. All such areas shall be:
  - (a) Improved by the developer, including equipment facilities, walkways and landscaping. The Planning Board, in reviewing the plans, shall determine that the recreational area is suited to its intended use in terms of the environment and will meet the needs of the project's inhabitants as provided in §405-38A(5).
  - (b) Maintained by the project owner or a homeowners' association in accordance with the provisions of §405-62A(14). The provisions of §405-38A(6) shall apply in the case of townhouse and multifamily projects; and
  - (c) Designed so open space adjacent to buildings not surfaced shall be graded and seeded to provide a thick stand of grass or other ground cover material. Two suitable specimen trees and four evergreen shrubs, exclusive of those areas used in connection with parking or other areas, shall be provided for each dwelling unit. This requirement for trees shall only be waived or modified if the site upon which the project is to be constructed is wooded and found to have adequate trees standing which will remain after development and construction are completed. Any landscaping shall be subject to the approval of the Township Shade Tree Commission, or Planning Board when no Commission exists.

G. Buffers and common facilities.

- (1) Perimeter buffer requirements. For any townhouse, multifamily and senior housing development, landscape buffers shall be required along the perimeter property lines and where residential building types change. In the development of the site, existing vegetation shall be retained which is of high quality and appropriate density. Where existing vegetation is unsuitable, it shall be augmented or replaced by new plantings in accordance with a landscape plan submitted to and approved by the board with jurisdiction over the application. The perimeter buffer shall be a minimum width of twenty (20) feet and suitable for its function of site enhancement, screening, or control of climatic effects. The perimeter buffer may be planted within any required perimeter setback but shall not be included in any fee simple lot. The buffer shall be

planted in accordance with the landscaping buffer standards of §405-62(A)(4). Utility installations, stormwater management facilities, refuse collection facilities and parking areas shall not be located in the required buffer area and shall be suitably screened to avoid a visual or other nuisance.

- (2) Where on-site sewage disposal facilities are found safe and approved by the appropriate health agencies, common use of such facilities shall be permitted.
- (3) Street widths, parking, parking courts and similar facilities for vehicles shall meet the Residential Site Improvement Standards at N.J.A.C. 5:21-1 et seq.

H. Affordable housing. Any district containing the word “inclusionary” in its title or identified in the Housing Element and Fair Share Plan of the municipality as a site for affordable housing shall provide a minimum of 15% of total units when the tenure is for rent or lease and 20% of total units when the tenure is for sale (whether fee simple, condominium, cooperative or other horizontal property regime). Any such affordable housing shall comport with the requirements of Chapter 108 of the Code of the Township of Upper Deerfield.

**Section 6. Severability.** If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of Chapter 108 as a whole, or any other part thereof.

**Section 7. Repealer.** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

**Section 8. Enactment.** This Ordinance shall take effect upon the filing thereof with the Cumberland County Planning Board after final passage, adoption, and publication by the Township Clerk of the Township of Upper Deerfield in the manner prescribed by law.

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James Crilley, Chairman

Adopted: September 5, 2019

Finally Attested:

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Roy J. Spoltore, Township Clerk

First Reading: August 15, 2019

Publication: August 22, 2019

Publication of Final Adoption: September 11, 2019