

BOROUGH OF HO-HO-KUS
BERGEN COUNTY, NEW JERSEY
ORDINANCE # 2018-03

AN ORDINANCE OF THE BOROUGH OF HO-HO-KUS TO AMEND SECTION 85-13.1, ENTITLED “DOWNTOWN INCLUSIONARY OVERLAY RESIDENTIAL / MIXED-USE ZONES 1 THROUGH 4,” IN ARTICLE IV, “DISTRICT REGULATIONS” OF CHAPTER 85, “ZONING ORDINANCE OF THE BOROUGH OF HO-HO-KUS” FOR COMPLIANCE WITH THE REQUIREMENTS OF THE SUPREME COURT.

WHEREAS, the Borough Council of the Borough of Ho-Ho-Kus, Bergen County, State of New Jersey (“Council”) adopted an Ordinance on July 25, 2017 adding Chapter 85-13.1, entitled “Downtown Overlay Ordinance”, to the Borough Code, as required by a Court approved Settlement Agreement between the Borough, Fair Share Housing Center, Chamberlain Developers, Inc. (“Chamberlain”), and Jonathan L. Mechanic (d.b.a. Ho-Ho-Kus Crossings) (Collectively, “Intervenors”); and

WHEREAS, on December 13, 2017, the Special Master to the Court In the Matter of the Application of the Borough of Ho-Ho-Kus submitted a letter to the Court recommending approval of the Borough’s Adopted Housing Element and Fair Share Plan, subject to the Borough satisfying several conditions.

WHEREAS, the Superior Court held a Compliance Hearing on December 18, 2017 at which time the Court conditionally approved the Borough’s Adopted Housing Element and Fair Share Plan, subject to the conditions recommended in the Master’s December 13, 2017 letter; and

WHEREAS, pursuant to the Court order entered by the Honorable Christine Farrington, J.S.C. on December 18, 2017, the Borough received a Judgment of Repose through July 1, 2025 provided the Borough complies with the Master’s conditions by April 17, 2018, at which time the Borough shall submit a certification to the Master that all conditions for a Final Judgment of Compliance and Repose have been met; and

WHEREAS, by email dated February 5, 2018, the Master requested as an additional condition of approval that the Borough amend the Downtown Overlay Ordinance to remove a section that permitted developers of inclusionary residential development to pay a special development fee to the Borough’s Affordable Housing Trust Fund where the required affordable housing set-aside does not equal a whole integer, as an alternative to rounding upward and constructing one unit in excess of the set-aside requirement; and

WHEREAS, the Borough’s and Planning Board’s affordable housing planning consultants Mary Beth Lonergan, PP, AICP, and Daniel Hauben, PP, AICP, of Clarke Caton Hintz, PC, have amended the Downtown Overlay Ordinance so as to replace the development fee with a payment in-lieu in accordance with §2-3.C of the Borough Code.

THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Ho-Ho-Kus, County of Bergen and State of New Jersey, that §85-13.1, entitled "Downtown Overlay", of the "Code of the Borough of Ho-Ho-Kus" ("Code") is hereby amended pursuant to the sections below.

Section I. Section 85-13.1.C, "Special Rules", of Article IV, "District Regulations" Of Chapter 85, "Zoning Ordinance of the Borough of Ho-Ho-Kus", Created. That Section 85-13.1.C is hereby amended to read as follows:

- C. Special Rules: Inclusionary multi-family development is permitted in each OL Overlay zone, conditioned on compliance with this ordinance and the following limitations:
 - (4) In any multi-family inclusionary development permitted by this ordinance, at least 20% of the residential units must be affordable to low- and moderate-income households. In the event that 20% of the total number of residential units does not result in a full integer, the developer / property owner shall refer to §2-3.C with regard to addressing the fractional unit.

Section II. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section III. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section IV. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

Adopted March 27, 2018