

**ORDINANCE #2024-04**

**AN ORDINANCE OF THE BOROUGH OF ALLENHURST TO CREATE THE  
MAIN STREET COMMERCIAL DISTRICT INCLUSIONARY OVERLAY ZONE  
(MS CD) AS REQUIRED BY THE SETTLEMENTS WITH FAIR SHARE HOUSING  
CENTER AND POWER STATION AT ALLENHURST, LLC**

Offered By: Deputy Mayor McLoughlin

Seconded By: Comm. Cumiskey

**WHEREAS**, the Borough of Allenhurst ("Borough") in the County of Monmouth and State of New Jersey, in furtherance of its settlement agreements with Fair Share Housing Center ("FSHC") and Power Station at Allenhurst, LLC and to comply with the Order of Fairness and Preliminary Compliance entered by the Superior Court of New Jersey on July 31, 2023, must supplement and revise portions of its existing Borough Code, and;

**WHEREAS**, the Borough has sought, to the best of its ability as a built out municipality with a lack of available vacant land, to meet the intent and spirit of the Affordable Housing process by drafting an affordable housing plan, participating in the court led settlement process, and reviewing its existing land use ordinances, and;

**WHEREAS**, the FSHC settlement agreement and Order of Fairness and Preliminary Compliance require the Borough to enact a number of ordinances including a Development Fee Ordinance, an Affordable Housing Ordinance, a Mandatory Set Aside Ordinance, an Overlay Zone Ordinance and a Redevelopment Plan Amendment all in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough's affordable housing obligations.

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Allenhurst that the Borough Code of the Borough of Allenhurst, be and is hereby amended, revised and supplemented to establish the Main Street Commercial District Inclusionary Overlay Zone (MS CD) as follows:

**SECTION I.** The Borough Code of the Borough of Allenhurst be and is hereby amended to revise sections of Chapter 26 to create the Main Street Commercial District Inclusionary Overlay Zone (MS CD) as follows:

**A.:** Insert under §26-3 ZONING DISTRICTS AND ZONING MAP:

The MS CD zone shall include the following lots as described on the Tax Map of the Borough of Allenhurst:

Block 9, Lot 1

Block 10, Lots 1 and 18

Block 14 Lots 1.01, 1.02, 2.01, 13, 14, 15 and 16

Block 16, Lots 1, 2 and 19

Block 19, Lots 1 and 2

Block 21, Lots 1, 1.01, 8, 9, 10, 11, 12 and 13  
Block 22, Lots 1, 2 and 3  
Block 23, Lot 2  
Block 24, Lots 1, 2, 3 and 4  
Block 25, Lot 1

**B.:** The existing Chapter §26-3.1 is hereby deleted to be replaced in its entirety by the following:

26-3.1 For the purposes of this chapter, the Borough is hereby divided into seven (7) districts with one Overlay zone as follows:

| Zone Designation | Primary Use   |
|------------------|---|
| R 1              | Residential   |
| R 2              | Residential   |
| B 1              | Business Office   |
| B 2              | Business Office   |
| C 1              | Commercial  |
| C 2              | Commercial  |
| C 3              | Commercial  |
| MS CD            | Main Street Commercial District Inclusionary Overlay Zoning |

**C.:** The existing Chapter 26-3.2 is hereby deleted and replaced in its entirety by the following:

26-3.2 Zoning Map: The boundaries of each of the districts are established as shown on the map entitled "Allenhurst Borough Zoning Map" prepared by Leon S. Avakian, Inc. dated August 26, 2020, which is hereby made a part of this chapter. The Zoning Map referred to herein can be found on file at the office of the Borough Clerk.

**D.:** The existing Chapter 26-4.10 entitled "Multifamily Overlay District" is hereby deleted, to be replaced in its entirety by the following:

**26-4.10 Main Street Commercial District Inclusionary Overlay Zone**

- a. Purpose. The purpose of this section is to establish a Main Street Commercial District Inclusionary Overlay Zone (MS CD) that places an overlay zone over specific areas of the Borough. Given the built out nature of the Borough, an effective inclusionary housing overlay zone will produce affordable units when suitable opportunities become available through redevelopment or other planning mechanisms. This overlay zone would provide for inclusionary residential housing to be developed either over first floor commercial development along Main Street or completely as inclusionary residential development not fronting Main Street on tax lots included in the overlay zone. The specific areas included are

the portions of the Borough that can realistically accommodate inclusionary housing development, which are in proximity to public transit and the Borough's main mixed use commercial thoroughfares.

The inclusionary overlay zone will regulate said developments through bulk and design standards. However, the Borough's underlying zoning will still be in effect. This will allow inclusionary affordable housing to be approved under local ordinance and regulations without detriment to the existing Borough zoning plan and ordinance. This creates a realistic opportunity to provide for the development of affordable housing in conformance with the requirements of the Court, the Fair Housing Act (N.J.S.A. 52:27D-301), the New Jersey Council on Affordable Housing ("COAH") prior round regulations, the Housing Element and Fair Share Plan of the Borough of Allenhurst prepared by the Borough to address its Prior Round and Third Round affordable housing obligation and the court-approved Settlement Agreement between the Borough and FSHC. Permitted and conditional uses within the MS-CD Inclusionary Overlay Zone shall include all permitted and conditional uses in the underlying zoning district in which the Overlay Zone is located and allow for inclusionary housing development within the provisions of this section.

b. Principal Permitted Uses:

1. All uses permitted within the zoning districts underlying this overlay zone.
2. Multi-family residential development for sale or for rent, as follows:
  - i. On upper floors above ground-floor commercial space (mixed use buildings) of properties that front on Main Street;
  - ii. On any floor of properties that do not front on Main Street.

c. Permitted Accessory Uses: Uses that are customary and incidental to multi family housing, including, but not limited to:

1. Parking
2. Garages
3. Signs
4. Fences
5. Trash Enclosure
6. Temporary construction trailers
7. Utility pump stations, transformers, switches and meter facilities to support the development
8. HVAC units
9. Generators

d. Bulk regulations: For purposes of this Overlay District, for lots that abut Main Street and also abut any other intersecting street, Main Street shall be considered the front yard and any intersecting street shall be considered the side yard.

| No. | Description                       | Measurement in Feet (unless noted otherwise)  |
|-----|-----------------------------------|---|
| 1.  | Minimum Lot Frontage (Feet)       | 50  |
| 2.  | Minimum Lot Depth (Feet)          | 75  |
| 3.  | Minimum Front Yard Setback (Feet) | 0 feet, unless not facing Main Street, in which case setback shall be as per underlying zone requirements |

|    |  |  |
|----|--|--|
| 4. | Minimum Side Yard Setback (Feet, total both) | 6 (only when building not attached to adjacent building) |
| 5. | Minimum Rear Yard Setback (Feet)             | 15 feet or 20% of lot depth, whichever is greater.       |
| 6. | Maximum Height (Stories/Feet)                | 3 stories/ 45 feet                                       |
| 7. | Maximum Building Coverage (Percent)          | 45%  |
| 8. | Maximum Improved Lot Coverage (Percent)      | 85%  |
| 9. | Maximum Residential Density                  | 15 units/acre  |

e. Projections from buildings, such as, but not limited to balconies, patios, chimneys and windows, may extend into the building set back provided they shall be set back a minimum of 5' from all property lines.

f. All property lines abutting a residential use (unless the building abuts an adjacent building) shall provide a 5 foot landscaped buffer . Said buffer shall not be in addition to the required setback.

g. Area, Yard and Bulk Requirements for Accessory Structures (including parking) & Uses. No accessory structures shall be permitted in the front yard set back.

| No. | Description  | Measurement in Feet (unless noted otherwise) |
|-----|--|--|
| 1.  | Minimum Side Yard Set back (Feet)                                  | 3  |
| 2.  | Minimum Rear Yard Setback (Feet)                                   | 5  |
| 3.  | Minimum Distance Between Accessory and Principal Structures (Feet) | 0  |
| 4.  | Maximum Height (Stories/Feet)                                      | 1 story /15 feet                             |

h. Parking

1. Commercial uses: 0 spaces

2. Residential uses: 1.5 spaces of off street parking per unit as may be further modified through shared parking studies.

i. Affordable housing requirement: A 20% set aside shall apply. In the event that the 20% inclusionary set-aside percentage of the total number of residential units does not result in a full integer, section 22-6.c. et seq. of the Borough of Allenhurst's Affordable Housing Ordinance shall apply. All affordable housing developments shall conform to the standards found in the Borough of Allenhurst's Affordable Housing Ordinance including provisions for affordability, very low income units, and UHAC standards as modified per the Borough's FSHC Settlement Agreement.

**SECTION II.:** REPEALER. The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

**SECTION III.:** INCONSISTENT ORDINANCES. All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.

**SECTION IV.:** SEVERABILITY. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

**SECTION V.:** EFFECTIVE DATE. This Ordinance shall take effect upon its passage and publication according to law.

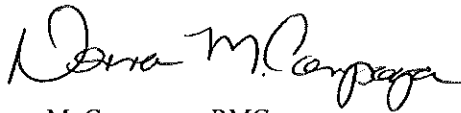
VOTE: Comm. McLoughlin-AYE; Mayor McLaughlin-AYE

**APPROVED:** January 9, 2024

**ADOPTED:** February 13, 2024

**CERTIFICATION**

I, Donna M. Campagna, Borough Clerk/Administrator, do hereby certify this to be a true and exact copy of an Ordinance adopted by the Board of Commissioners of the Borough of Allenhurst, County of Monmouth, State of New Jersey, at a meeting held on February 13, 2024.

A handwritten signature in black ink, appearing to read "Donna M. Campagna", is written over a horizontal line.

Donna M. Campagna, RMC  
Borough Clerk/Administrator