



**BOROUGH OF CALDWELL
NEW JERSEY**

ORDINANCE NO. 1384-20

AN ORDINANCE OF THE BOROUGH OF CALDWELL AMENDING CHAPTER 250 OF THE CODE OF THE BOROUGH OF CALDWELL, ENTITLED "CALDWELL BOROUGH ZONING ORDINANCE" BY AMENDING VARIOUS SECTIONS OF SAME PURSUANT TO THE 1999-2025 HOUSING ELEMENT AND FAIR SHARE PLAN

Recommended for approval by:


Thomas Banker, Administrator

Approved as to form and legality by:

Title:

(30 Smull Avenue)

BE IT ORDAINED by the Borough Council of the Borough of Caldwell, County of Essex and State of New Jersey as follows:

Section 1: Purpose

The purpose of this Ordinance is to amend various sections of the Borough Zoning Ordinance as a result of the New Jersey Superior Court Appellate Division's finding that the Council on Affordable Housing's attempts in developing Third Round Rules were invalid and its order that COAH prepare rules that utilized methodologies similar to First and Second Round Rules for determining a municipality's regional fair share affordable housing obligation. Since COAH failed to do so, the New Jersey Supreme Court established a process for determining regional fair share affordable housing obligations for municipalities and reviewing municipal housing elements and fair share plans to determine whether those plans can be granted approval akin to "COAH substantive certification" by the courts. As part of this process, the Borough is further amending section 250-25 to establish the requirements of a new zoning district referred to as IH-5 - Inclusionary Housing Zone 5.

This new zoning district is being added in anticipation of the Borough of Caldwell Planning Board's adoption, and the Borough of Caldwell Borough Council's endorsement of the Borough of Caldwell's 1999-2025 Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. This Ordinance implement the provisions of the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1.1 et seq., as amended and supplemented, N.J.S.A. 5:80-26.1 et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

Section 2: New Section: Sec. 250-29 Inclusionary Housing Zone 5 (IH5) District

A. Establishment. There is hereby permitted and created an Inclusionary Housing Zone 5 (IH5) District as shown on the Official Zooning Map of the Borough of Caldwell, County of Essex, State of New Jersey. The Official Zoning Map of the Borough of Caldwell is hereby amended to include the IH5 District, and is incorporated herein by reference. The IH5 District shall apply to the property located at 30 Smull Avenue and designated on the Borough of Caldwell tax maps as Block 22, Lot 7, and any prior zoning for this lot is hereby changed accordingly. The zoning in this section shall not be construed or interpreted to affect the permitted uses, permitted accessory uses, bulk requirements and/or any other requirements of any other zone in the Borough.

B. Purpose. The purpose of this zone is to permit an inclusionary development on property located at 30 Smull Avenue and designated on the Borough of Caldwell tax maps as Block 22, Lot 7, which contains approximately 0.6 acres. The inclusionary development will, at the property owner's/developer's sole discretion, consist of either five market rate units and one affordable family unit on site; or six market rate units on site, and the owner shall develop and provide one affordable housing unit off site in conjunction with development of this property.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

Building, Stacked Townhouse - A building consisting of more than two (2) attached single-family residences, each with separate outside access and separated by either vertical, horizontal or both vertical and horizontal construction.

Unit, Multifamily - A building on one lot, used and designated as a residence for three (3) or more households living independently of each other and separated by either vertical, horizontal, or both vertical and horizontal construction.

D. Principal permitted uses.

- (1) Stacked townhouse buildings as defined in this section. More than one principal building may be constructed on a single lot.
- (2) Multifamily unit as defined in this section. More than one principal building may be constructed on a single lot.

E. Permitted accessory uses.

- (1) Parking areas and lots is required by Chapter 250;
- (2) Loading areas as required by Chapter 250;
- (3) Signage is permitted by Chapter 250;
- (4) Refuse and recycling enclosures as regulated by Chapter 250;
- (5) Satellite antennae as regulated by Chapter 250 and/or Federal law;
- (6) Fences and walls as regulated by Chapter 250, except that fences in all yards may be a maximum of six (6) feet in height;
- (7) Driveways and utilities as regulated by Chapter 250;
- (8) Private attached garages to be used by occupants of the inclusionary housing development in the zone;
- (9) Detached garage or storage units for use by the occupants of the inclusionary housing development in the zone;
- (10) Any other customarily incidental accessory use.

F. Bulk, area, yard and height requirements:

- (1) Minimum lot area shall be 10,500 square feet
- (2) Minimum lot width shall be 75 feet.
- (3) Maximum gross residential density shall be 25 dwelling units per acre
- (4) Minimum front yard: 25 feet
- (5) Minimum side yard: 5 feet
- (6) Combined minimum side yards: 15 feet
- (7) Minimum rear yard setback for principal building: 50 feet
- (8) Minimum rear yard setback for accessory uses and buildings such as detached garage or storage unit: 5 feet
- (9) Maximum building coverage: 36%
- (10) Maximum impervious coverage: 68%
- (11) Maximum building height for principal structure shall not exceed 39 feet.

G. Building requirements

- (1) Length of stacked townhouse dwelling building or multifamily unit building shall not exceed 210 feet in length, exclusive of the length of any covered porch.

H. Inclusionary Housing requirements

- (1) Market rate dwelling units shall total no more than six units.
- (2) Affordable dwelling unit, which are defined by state statute, shall be one unit, to be developed on or off the site of this property at the sole discretion of the owner/developer.
- (3) The affordable housing unit for this development shall be a two-bedroom unit affordable to a low income household. The affordable housing shall be subject to market-rate and affordable housing phasing requirements, low and moderate income split requirements, disability

requirements, and other requirements, in accordance with Caldwell Borough Ordinances and New Jersey State statutes and regulations.

I. Parking Requirements

- (1) The provisions of the Residential Site Improvements Standards, N.J.A.C. 5:21-4.14 and Table 4.4 shall apply, although the Borough of Caldwell recognizes that due to local conditions, alternate standards may be appropriate and that de minimus exceptions shall apply and be liberally granted.

SECTION 3: EFFECTIVE DATE

DATE OF FIRST READING: March 24, 2020
 DATE OF PUBLICATION: March 30, 2020
 MOVED: Lace
 SECONDED: Schmidt

DATE OF SECOND READING: April 21, 2020
 DATE OF ADOPTION: April 21, 2020
 MOVED:
 SECONDED:

RECORD OF COUNCIL VOTE

Councilman: Lace presented the following ordinance - Seconded by Councilman: Gates

COUNCILMAN	Yes	No	Absent	Abstain	COUNCILMAN	Yes	No	Absent	Abstain
Schmidt		✓			Lace	✓			
Rodgers	✓				DePalma-Iozzi	✓			
Cole	✓				Gates	✓			

Brittany Heun
 Brittany Heun, Deputy Clerk

John Kelley
 John Kelley, Mayor

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.