

ORDINANCE NO. 3 -2013

AN ORDINANCE TO PROVIDE FOR THE PARTIAL AMENDMENT AND SUPPLEMENTATION OF "CHAPTER 13, 2000 BOROUGH OF MORRIS PLAINS LAND DEVELOPMENT ORDINANCE" WITH THE PARTIAL AMENDMENT, SUPPLEMENTATION AND REPEAL OF CERTAIN CONDITIONS SET FORTH IN SECTION 13-5.4.A, "CONDITIONAL USES, HELISTOPS"; THE PARTIAL AMENDMENT AND SUPPLEMENTATION OF SECTION 13-5.2A(12.6), "PROHIBITED USES IN THE OB OFFICE BUILDING ZONE TO PERMIT RETAIL SALES AND SERVICES AND MOTOR VEHICLE SALES AND SERVICES ON CERTAIN PROPERTIES; AND SECTION 13-5.1C, "SCHEDULE OF PERMITTED USES" AND FOOTNOTES TO SCHEDULE "C" IN CONNECTION THEREWITH.

WHEREAS, the Borough Council is desirous of revising the conditional use standards for helistops, consistent with the recommendation of its professionals and state regulations governing such uses; and

WHEREAS, the Borough Council is also desirous of adopting certain amendments to the Land Development Ordinance that would expand the permitted uses in the OB Office Building Zone under certain circumstances, as well as certain housekeeping amendments; and

WHEREAS, the Borough Council proposes to amend Chapter 13, consistent with these objectives.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Morris Plains, they being the Governing Body thereof, as follows:

Section 1:

Section 13-5.4.A(1) of "Chapter 13, 2000 Borough of Morris Plains Land Development Ordinance," ("Chapter 13") is hereby amended, supplemented and revised by replacing the term "New Jersey State agency" with the term "New Jersey Department of Transportation Division of Aeronautics."

Section 2:

Section 13-5.4A(3) of Chapter 13 is hereby amended, supplemented and revised by replacing the phrase "will not adversely affect the character of the neighborhood in a substantial way in terms of noise, wind (downdraft), fumes and safety" and inserting in its place and stead the phrase "will not result in a significant adverse affect on the character of the neighborhood in terms of noise, wind (downdraft), fumes and safety."

Section 3:

Section 13-5.4.A(4) of Chapter 13 is hereby deleted and replaced with the following new paragraph (4) which shall read as follows:

- (4) The landing and takeoff area shall comply with the requirements of the New Jersey Department of Transportation Division of Aeronautics.

Section 4:

Section 13-5.4.A of Chapter 13 is hereby amended, supplemented and revised with the repeal of paragraph (5) which presently reads as set forth below, and all remaining paragraphs in Section 13-5.4A shall be renumbered sequentially:

- (5) The site location must be greater than one (1) nautical mile from any and all helistop sites.

Section 5:

Section 13-5.4.A(6) of Chapter 13 is hereby amended, supplemented and revised by replacing the term "site" with the term "helistop."

Section 6:

Section 13-5.4.A(7.1) of Chapter 13 is hereby amended, supplemented and revised with the addition of the phrase "and the I-Limited Industrial Zone, as appropriate" at the end of the sentence.

Section 7:

Section 13-5.4.A(7.2) of Chapter 13 is hereby amended, supplemented and revised by replacing the term "two hundred-fifty (250) feet" with the term "two hundred twenty-five (225) feet."

Section 8:

Section 13-5.4.A(7.3) of Chapter 13 is hereby amended, supplemented and revised by deleting the phrase "or permanent structures" at the end of the sentence.

Section 9:

Section 13-5.4.A of Chapter 13 is hereby amended, supplemented and revised with the repeal of paragraph (8) which presently reads as set forth below and all remaining paragraphs in Section 13-5.4A shall be renumbered sequentially:

(8) Noise from helicopters along any arrival and departure path shall not generate noise louder than 65 dBA during the time specified in Paragraph 9 at any:

- (8.1) School.
- (8.2) Place of worship.
- (8.3) Hospital.
- (8.4) Senior citizen complex.
- (8.5) Library.
- (8.6) Residential zone line.

Section 10:

Section 13-5.4.A(9) of Chapter 13 is hereby amended, supplemented and revised by replacing the phrase “number of helicopter flights shall not exceed six (6) per day” with the following new phrase “number of helicopter flights shall not exceed four (4) round trip flights per day” and by replacing the following bracketed language “[defined as one (1) hour after sunrise until one (1) hour before sunset]” with the following new bracketed language “[defined as one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset]” so that hereafter, paragraph (9) shall read as follows:

(9) The number of helicopter flights shall not exceed four (4) round trip flights per day, shall be restricted to Monday through Saturday during daylight hours [defined as one-half (1/2) hour before sunrise until one-half (1/2) hour after sunset] and are expressly prohibited on Sundays and legal holidays.

Section 11:

Section 13-5.4.A(10) of Chapter 13 is hereby amended, supplemented and revised by replacing, in the first sentence, the phrase “to accommodate the load factor determined by the weight of the helicopter” with the new phrase “as determined by the New Jersey Department of Transportation Division of Aeronautics” and by replacing the phrase “ helistop is intended to serve and” with the new phrase “landing and takeoff area” so that hereafter, paragraph (10) shall read as follows:

(10) The landing and takeoff area shall be suitably improved or constructed as determined by the New Jersey Department of Transportation Division of Aeronautics. The landing and takeoff area shall be level, smooth and free of dirt and debris.

Section 12:

Section 13-5.4.A of Chapter 13 is hereby amended, supplemented and revised with the repeal of paragraph (16) which presently reads as set forth below and all remaining paragraphs in Section 13-5.4A shall be renumbered sequentially:

(16) Provision shall be made for a chain link or other suitable permanent type fence not less than four feet in height around the periphery of the landing and takeoff area to keep unauthorized persons out of this area.

Section 13:

Section 13-5.4.A(17) of Chapter 13 is hereby amended, supplemented and revised with the repeal of the first sentence of Paragraph (17) which now reads, "Provision shall be made for at least two approach and departure paths separated by an arc of at least 90 degrees" and inserting the following new first sentence in its place and stead: "Provision shall be made for approach and departure paths as approved by the New Jersey Department of Transportation Division of Aeronautics.

Section 14:

Section 13-5.4.A(19) of Chapter 13 is hereby amended, supplemented and revised by deleting the phrase ", intensity of noise, hours and scope of operations" so that hereafter, paragraph (19) shall read as follows:

(19) Any change in the frequency of use or changes to the site features as originally approved shall require prior approval of the Planning Board.

Section 15:

Section 13-5.4.A(20) of Chapter 13 is hereby amended, supplemented and revised by replacing the term "New Jersey State agency" with the term "New Jersey Department of Transportation Division of Aeronautics."

Section 16:

Paragraph (a) of Section 13-5.2.A(12.6), Prohibited Uses in the OB Office Building Zone of Chapter 13 is hereby amended, supplemented and revised such that "retail sales and services" and "motor vehicle sales and services" shall be permitted on certain properties with direct frontage on Route 10 so that hereafter, paragraph (a) of Section 13-5.2.A (12.6) shall read as follows:

(a) Any use prohibited in the B-4 Office Building Zone with the exception of the following uses, which shall be permitted only on lots with direct frontage on Route 10 as set forth in Schedule C and Footnotes to Schedule C:

- (1) Retail sales and services;
- (2) Motor vehicle sales and services.

Section 17:

Section 13-5.1C, Schedule "C", Schedule of Permitted Uses" of Chapter 13 is hereby amended and supplemented by replacing the term "retail stores and services" with the term "retail sales and services" in the list of Permitted Uses, adding retail sales and services as a permitted use in the OB zone subject to a new footnote 15, adding a new use category, "motor vehicle sales and services" to the list of permitted uses allowed in the OB zone subject to a new footnote 15, and Footnotes to Schedule "C" is hereby amended with item (15) limiting said additional permitted uses in the OB zone to lots with at least 150 feet of direct frontage on Route 10, so that hereafter Schedule "C", Schedule of Permitted Uses and Footnotes to Schedule "C" shall read as set forth on the attached Schedule "C" and Footnotes to Schedule "C" which is annexed hereto and incorporated herein by reference as if set forth at length.

Section 18:

All other provisions of "Chapter 13, 2000 Borough of Morris Plains Land Development Ordinance" shall be unaffected and are hereby continued.

Section 19:

All other Ordinances, parts of Ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.

Section 20:

This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law. Notwithstanding that any provision of this Ordinance is, for any reason, held to be invalid or unconstitutional by a Court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue to be of full force and effect. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

Section 21:

The Borough Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled to notice pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

Section 22:

This Ordinance shall take effect immediately after final passage and publication and upon approval by the County Review Agency, or sixty (60) days from the receipt of the ordinance by the County Review Agency if the County Review Agency should fail to act.

**SECTION 13-5.1C
SCHEDULE "C"
PERMITTED USES
LAND DEVELOPMENT ORDINANCE
BOROUGH OF MORRIS PLAINS, NEW JERSEY**

X=PERMITTED

Principal Uses	R-1	R-2	R-3	R-4	R-5	R-6	B-1	B-2	B-3	B-4	OB	C-1(1)	L-1(1)	L-2(1)	I(1)
One-Family Dwellings	X	X	X	X											
Townhouses §13-5.6				X											
Apartments and Townhouses §13-5.6.1					X										
Multi-Family Interlocking Townhouses						X									
Apartments on floors above the first floor (2) (11)							X								
Adult Care Center Sec. 13-5.2B(5)															X
Banks and Similar Financial Institutions							X(12)	X	X	X	X	X			
Bowling Alleys												X			
Child Care Centers Sec. 13-5.2B(4)							X	X	X	X	X	X	X	X	X
Computer and Data Processing Centers										X	X	X			X
Executive Conference and Training Centers											X		X	X	X
Hotels											X				
Funeral Homes										X					
Indoor Health and Fitness Centers, inc. tennis, racquetball, volleyball centers, Martial Arts & Exercise Studios									X(13)			X			X
Limited Manufacturing, fabrication, processing, assembly and packaging (3)													X	X	X
Mailing, reproduction and stenographic services											X				X
Medical and Dental Laboratories															X
Motor Vehicle Sales and Services											X(15)				
Non-profit Clubs, Lodges, Fraternal, Civic & Charitable Organizations							X	X		X		X			
Office for Business, Professional, Administrative and Executive Purposes							X(3)	X	X	X	X	X	X	X	X
Pool, Billiard & Table Tennis Rooms (4)									X			X			
Printing Establishments (5)							X	X	X			X			
Public Buildings and Uses	X	X	X	X			X	X	X	X	X	X	X	X	X
Research, Design & Testing Laboratories													X	X	X
Residential Health Care Facilities, including Assisted Living															X
Restaurants, Taverns and Cafes							X	X	X			X			
Retail Sales and Services							X	X	X(6)		X(15)	X			
Storage Warehouses													X		X
Studios and Galleries for Art, Music, Dance & Photography								X	X	X		X			
Wholesale Establishments												X			

**SCHEDULE "C"
PERMITTED USES - continued**

X=PERMITTED

Accessory Uses	R-1	R-2	R-3	R-4	R-5	R-6	B-1	B-2	B-3	B-4	OB	C-1(1)	L-1(1)	L-2(1)	I(1)
Mechanical Amusement Devices (7)							X	X	X			X			
Outdoor Storage Sec. 13-5.2A(14)							X	X					X	X	X
Parking and Parking Facilities Sec.13-5.7 C & D	X	X	X	X	X(10)	X(14)	X	X	X	X	X	X	X	X	X
Private Garages Sec. 13-5.2B(7)	X	X	X	X											
Private Swimming Pools Sec.13-5.2B(9)	X	X	X	X	X	X									
Roomers or Boarders not more than 2 per family	X	X	X	X											
Signs Sec. 13-5.8	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Other Accessory Use Customarily Incident to Principal Uses	X(8)	X(8)	X(8)	X(8)	X	X	X	X	X(9)	X	X	X	X	X	X

Conditional Uses	R-1	R-2	R-3	R-4	R-5	R-6	B-1	B-2	B-3	B-4	OB	C-1(1)	L-1(1)	L-2(1)	I(1)
Child Care Centers Sec.13-5.4D		X	X												
Helistops Sec. 13-5.4A													X	X	X
Public Garages and Gas Stations Sec. 13-5.4B								X				X			
Public Utilities & Institutional Uses Sec. 13-5.4C	X	X	X	X			X	X	X	X	X	X	X	X	X
Wireless Telecommunications Antennas & Facilities §13-5.4E													X	X	X

**FOOTNOTES TO SCHEDULE "C"
LAND DEVELOPMENT ORDINANCE
BOROUGH OF MORRIS PLAINS, NEW JERSEY**

- (1) Uses in the C-1, L-1, L-2 and I Zones subject to the Performance Standards in Section 13-5.2A(24).
- (2) Each apartment unit shall have a minimum floor area of 500 square feet plus 150 square feet for each habitable room other than a living room, dining room or kitchen.
- (3) Business and professional offices located only on floors above the first floor subject to the provision for adequate off-street parking and provided adequate off-street parking for first floor uses exists. The exclusion of office use on a first floor of retail service operations involving the performance of office functions, such as, home fuel business, travel agencies and similar service businesses.
- (4)
 - a. Pool and billiard rooms are further regulated in Article of Chapter 4 of the Borough Code.
 - b. No such use shall involve the preparation of or sale of food except for food dispensed through vending machines. These restrictions shall not preclude consumption of food brought on the premises by patrons.
- (5) Business and personal service printing, such as photocopy printing, duplicating and off-set print occupying no more than 2,000 sq. ft. of floor area.
- (6) The maximum floor area of any individual retail store shall be 75,000 sq. ft.
- (7) Subject to the requirements of Chapter 4, Amusements and Amusement Businesses.
- (8) Not including any activity commonly conducted for gain unless otherwise specifically permitted.
- (9) Accessory buildings prohibited in the B-3 Zone.
- (10) Includes parking decks. **[Added by Ord. #7-2001]**
- (11) Apartment units shall not be permitted above the first floor in buildings located within the B-1 zone that are used as restaurants, cafes, taverns and/or bars. **[Added by Ord. #13-2002]**
- (12) Excluding drive-thru facilities.
- (13) Exercise Studios permitted only.
- (14) Off-street parking facilities shall be permitted both in common parking areas and private driveways and garages. **[Added by Ord.#12-2010]**
- (15) Limited to lots with at least 150' of direct frontage along Route 10.

Introduced: 2/21/13
Adopted: 3/21/13

/s/ Frank J. Druetzler