

ORDINANCE No. 5-2006

**ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AMENDING AND SUPPLEMENTING
CHAPTER 170 OF THE CODE OF THE TOWNSHIP OF LIVINGSTON BY ESTABLISHING
MAXIMUM HABITABLE FLOOR AREAS AND MAXIMUM HABITABLE FLOOR AREA
RATIOS AS ADDITIONAL MEANS OF CONTROLLING THE SIZE OF BUILDINGS IN
SINGLE-FAMILY RESIDENTIAL DISTRICTS.**

WHEREAS, recent residential construction, reconstruction and expansion within the Township has demonstrated a conflict between maintaining the character of existing residential neighborhoods and the acknowledged fact that changes in life styles have resulted in desires for larger homes than exist in many neighborhoods; and

WHEREAS, residential buildings which are disproportionately large in comparison to other homes in the neighborhood interfere with the light and air of their neighbors, reduce open space, and alter the neighborhood visual environment; and

WHEREAS, limiting the size of homes can have the effect of promoting the continued availability of more-affordable housing in the Township and otherwise promote the general welfare of the community; and

WHEREAS, the Planning Board has examined the issue and recommended the establishment of maximum habitable areas and maximum habitable floor area ratios as additional means of controlling the sizes of buildings in residence districts so as to avoid or reduce the negative effects of disproportionality while still allowing larger or expanded homes, maintaining the availability of more-affordable housing, and furthering the purpose of the Land Use Ordinance;

THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Livingston, in the County of Essex, State of New Jersey, as follows:

Section 1. § 170-3 "Terms defined." of the Code of the Township of Livingston is hereby amended and revised by

(a) inserting the following definitions:

Approved Stairway means a permanent access way that allows for uninterrupted ingress to or egress from a space within a structure. A mechanically or manually operated or pull-down stair, or an opening requiring the placement of a ladder or other device for access, is not an approved stairway.

Attic means that part of a building that is immediately below and is wholly or partly within the roof framing and that is not served by an approved stairway for ingress or egress.

Cellar means an area partially or completely below grade, with less than one-half of its floor-to-ceiling height above the finished grade of the adjoining ground on all sides; and with the ceiling of the space less than four (4) feet above the finished grade of the adjoining ground at all points.

Habitable floor area means the sum of the gross horizontal area of all the stories, and half stories, of a building as measured from the exterior face of exterior building walls, or from the center of a wall separating two buildings. In a residential building any basement, cellar or attic, including walk-out basements, and the first 450 square feet of any garage space, shall not be included in the calculation of habitable floor area. The habitable floor area of the principal building and that of any accessory buildings or structures shall be aggregated when determining habitable floor area.

Habitable floor area ratio means the sum of the habitable floor areas of all floors of buildings or structures on a site divided by the total area of the site.

Half story means a space under a sloping roof and in which the possible floor area with head room of six and one-half (6.5) feet or more occupies no more than fifty (50) percent of the total floor area of the story directly beneath.

- (b) the definition of the term "Basement" is deleted and the following is substituted therefor:

Basement means an area partially or completely below grade; with either more than one-half of its floor-to-ceiling height above the finished grade of the adjoining ground on all sides or with the ceiling of the surface more than four (4) feet above the finished grade of the adjoining ground at any point.

- (c) the definition of the term "Height of building" is deleted and the following is substituted therefor:

Height of building means the averaged vertical distance, measured at a minimum of four corners of the building, to the highest point of the building from the original lot grade, or from the lot grade on a site plan, subdivision plan, or other plan as approved by the appropriate municipal agency or department. However, the lot grade from which the measurement is taken shall not consist of mounding, terracing or any devices or means designed or employed to allow increased building height.

Section 2. § 170-87 is hereby amended by adding the following:

- AA. Habitable floor area. The development of any lot in the R-1, R-2, R-3, R-4 and R-5E Zones and the construction, reconstruction or expansion of any building(s) or structure(s) on any such lot, shall not exceed the aggregated habitable floor area maximum according to the following schedule, except as permitted in paragraph CC.

- (1) Within the R-1 Zone: 6,200 square feet
- (2) Within the R-2 Zone: 4,870 square feet
- (3) Within the R-3 Zone: 3,520 square feet
- (4) Within the R-4 Zone: 2,800 square feet
- (5) Within the R-5E Zone: 3,220 square feet

- BB. Habitable floor area ratio. The development of any lot in the R-1, R-2, R-3, R-4 and R-5E Zones and the construction, reconstruction or expansion of any building(s) or structure(s) on any such lot, shall not exceed the habitable floor area ratio set forth in the following schedule, except as permitted in paragraph CC.

- (1) Within the R-1 Zone: 0.15
- (2) Within the R-2 Zone: 0.18
- (3) Within the R-3 Zone: 0.21
- (4) Within the R-4 Zone: 0.28
- (5) Within the R-5E Zone: 0.28

- CC. Habitable floor area exemptions.

- (1) Any addition or alteration of an existing building that increases the habitable floor area, but involves no change to the exterior structure of the property, is exempt from the maximum habitable floor area requirement.

(2) Any property developed under the Township's open space zoning or residential cluster development option is subject to the following habitable floor area limitations:

- (a) Maximum habitable floor area: 10,000 square feet.
- (b) Maximum habitable floor area ratio: 0.34

Section 3. § 170-96C is amended by adding the following:

- (8) Habitable floor area and habitable floor area ratio. No building(s) shall exceed the lesser of the habitable floor area maximum according to the schedule in § 170-87AA or the habitable floor area ratio established in the schedule in § 170-87BB, except for those permitted in § 170-87CC.

Section 4. § 170-97C is amended by adding the following:

- (7) Habitable floor area and habitable floor area ratio. No building(s) shall exceed the lesser of the habitable floor area maximum according to the schedule in § 170-87AA or the habitable floor area ratio established in the schedule in § 170-87BB.

Section 5. § 170-98C is amended by adding the following:

- (7) Habitable floor area and habitable floor area ratio. No building(s) shall exceed the lesser of the habitable floor area maximum according to the schedule in § 170-87AA or the habitable floor area ratio established in the schedule in § 170-87BB.

Section 6. § 170-99C is amended by adding the following:

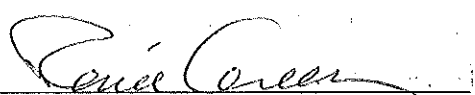
- (7) Habitable floor area and habitable floor area ratio. No building(s) shall exceed the lesser of the habitable floor area maximum according to the schedule in § 170-87AA or the habitable floor area ratio established in the schedule in § 170-87BB.

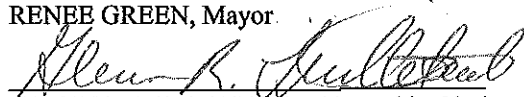
Section 7. § 170-104D is amended by adding the following:

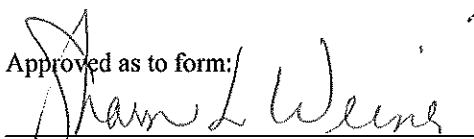
- (3) Habitable floor area and habitable floor area ratio. No building(s) shall exceed the lesser of the habitable floor area maximum according to the schedule in § 170-87AA or the habitable floor area ratio established in the schedule in § 170-87BB.

Section 8. Except as hereby amended, revised and supplemented, the Code of the Township of Livingston shall remain in full force and effect.

Section 9. This ordinance shall take effect upon final passage and publication in accordance with law.


RENEE GREEN, Mayor


GLENN R. TURTLETAUB, Township Clerk

Approved as to form:

SHARON L. WEINER, Township Attorney

Adopted: 8/7/06