

**TOWNSHIP OF MONTGOMERY
ORDINANCE NO. 04 - 1137**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER XVI, "LAND DEVELOPMENT",
OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984)
COUNTY OF SOMERSET, STATE OF NEW JERSEY
AND SPECIFICALLY SECTION 16-3.3 REGARDING THE ZONING MAP,
SECTION 16-4.12 REGARDING "PRINCIPAL PERMITTED USES"
IN THE "HC" HIGHWAY COMMERCIAL DISTRICT,
AND A NEW SUBSECTION 16-412 j. REGARDING
"PROVISIONS FOR AGE-RESTRICTED AFFORDABLE APARTMENT UNITS"
WITHIN SHOPPING CENTERS IN THE "HC" DISTRICT**

**BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF MONTGOMERY**, in the County of Somerset and the State of New Jersey, that Chapter
XVI, "Land Development", of the Code of the Township of Montgomery (1984) is hereby
amended and supplemented as follows:

SECTION 1. Amend the first paragraph of Subsection 16-3.3, entitled "Zoning Map;
Critical Areas Map", of the Code of the Township of Montgomery (1984) to read in its entirety
as follows:

"16-3.3 Zoning Map; Critical Areas Map. The boundaries of the zoning
districts specified in Subsection 16-3.1 hereinabove, and the land areas designated
for the optional development alternatives specified in Subsection 16-3.2, also
hereinabove, are shown and established on the "Zoning Map" of the Township of
Montgomery, dated January 1, 2004, which accompanies and is part of this
chapter."

Note For The Reader Of This Ordinance: The "Zoning Map" is

attached at the end of this ordinance. For informational purposes, the area of Montgomery Township to be rezoned into the "HC" Highway Commercial zoning district includes approximately 2.05 acres situated at the northwest corner of the Route 206/Route 518 intersection. The subject land area is identified as Lots 57 & 58 in Block 28001 on the Township Tax Sheets.

SECTION 2. Amend Section 16-4.12.a., entitled "Principal Permitted Uses On The Land And In Building", of the Code of the Township of Montgomery (1984), to add a new Subsection 16-4.12 a.16. to read in its entirety as follows in order to permit "Age-Restricted Affordable Apartment Units" on certain land areas within a permitted "Shopping Center" in the "HC" Highway Commercial zoning district:

- "16. Age-Restricted Affordable Apartment Units on certain land areas within a permitted "Shopping Center" in the "HC" Highway Commercial zoning district in accordance with the requirements specified in Subsection 16-4.12 j. of this chapter hereinbelow.

SECTION 3. Amend Section 16-4.12.a., entitled "Principal Permitted Uses On The Land And In Building", of the Code of the Township of Montgomery (1984), to add a new Subsection 16-4.12 a.17. to read in its entirety as follows in order to include the previously approved "Senior Citizen Restricted Housing" on certain lands within the "Montgomery Shopping Center" as permitted uses within the "HC" Highway Commercial zoning district:

- "17. The sixteen (16) "Senior Citizen Restricted Housing" units approved by the Montgomery Township Zoning Board of Adjustment on July 12, 1988 shall be considered permitted uses within the "HC" Highway Commercial zoning district, provided that all conditions of the memorializing resolution adopted by the Zoning Board on September 20, 1988 and later modified via subsequent resolutions adopted on January 16, 1996 and February 20, 1996 are met."

SECTION 4. Amend Section 16-4.12., entitled "HC Highway Commercial", of the

Code of the Township of Montgomery (1984), to add a new Subsection 16-4.12 j. to read in its entirety as follows in order to provide requirements for the construction of “Age-Restricted Affordable Apartment Units” on certain land areas within a permitted “Shopping Center” in the “HC” Highway Commercial zoning district:

- “j. *Provisions For Age-Restricted Affordable Apartment Units In A Permitted Shopping Center.* The following ordinance provisions are intended to encourage the development of age-restricted affordable apartment housing units within a shopping center in the “HC” Highway Commercial zoning district in order to further diversify the housing opportunities for the elderly in Montgomery Township and to provide such housing within easy walking distance of retail sales and services and public transportation.
1. The lands to be developed with the age-restricted affordable apartment units must be part of an approved “shopping center” within the “HC” District.
 2. The land area devoted to the apartment units must be specifically indicated on the site plan reviewed and approved by the Planning Board, and the land area may not be credited for any other development within the shopping center.
 3. The land area devoted to the apartment units must be at least two and one-half (2½) acres in area and shall have at least three hundred feet (300’) of frontage on an existing street.
 4. The age-restricted affordable housing units shall be developed at a maximum density of eight (8) dwelling units per acre of land specifically devoted to the units, provided that no more than twenty-four (24) units shall be developed.
 5. All of the apartment units shall be for rent.

6. All of the apartment units shall be deed restricted for occupancy by households with at least one (1) person fifty-five (55) years of age or older and with no person less than nineteen (19) years of age, provided that visitors less than nineteen (19) years of age shall be permitted for no more than eight (8) weeks during any twelve (12) month time period.
7. The maximum height of an apartment building shall be three and one-half (3½) stories and thirty-eight feet (38'), and all buildings shall have a mansard or single-ridge roof line.
8. All apartment buildings shall be set back at least fifty feet (50') from any street line and tract boundary line, and shall be no closer than fifty feet (50') to any other building in the shopping center.
9. The area developed with the apartment units shall have direct vehicular and pedestrian access to the frontage street and to the shopping center.
10. All of the apartment units shall be developed in accordance with the "Substantive Rules" (N.J.A.C. 5:93-1, et seq.) of the New Jersey Council on Affordable Housing (COAH) existing at the time of the construction of the units.
 - (a) More specifically, the apartment units shall be constructed, marketed, occupied and maintained as "low" and "moderate" income dwelling units in accordance with COAH's "Substantive Rules" in a manner that they can be credited against the Township of Montgomery's "fair share" affordable housing obligation.
 - (b) One-half (½) of the units shall be set aside for occupancy by eligible "low" income households and one-half (½) of the units shall be set aside for occupancy by eligible "moderate" income households."

SECTION 5. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 6. This Ordinance shall take effect upon final adoption, publication and the filing of a copy of said Ordinance with the Somerset County Planning Board, all in accordance with the law.