

ORDINANCE NO. 22-13-OA

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY,
COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING
AND SUPPLEMENTING CHAPTER XXXV, ENTITLED "LAND
DEVELOPMENT", SO AS TO AMEND VARIOUS SECTIONS
OF 35-101**

February 28, 2022

SECTION 1. Chapter 35 of the Township Code of the Township of Berkeley, entitled "Land Development," is hereby amended and supplemented so as to amend §35-101.1, entitled "Definition", which shall now read as follows:

§35-101.1 Definition.

As used in this section:

Planned Residential Retirement Community hereinafter referred to as "PRRC," shall mean a community having one (1) or more parcels of land with a contiguous total acreage of at least one hundred (100) acres except within the RGR Zone which must have a continuous total acreage of at least forty (40) acres, forming a land block to be dedicated to the use of a planned retirement community; through its corporation, association or owners, the land shall be restricted by bylaws, rules, regulations and restrictions of record, and services for the benefit of permanent residents of communities which mandate that in accordance with 24 CFR 100.306(4), 24 CFR 100.36(5) and 24 CFR 100.36(6) only persons fifty-five (55) years of age and older, along with either their respective spouse or domestic partner, or otherwise if expressly authorized by the PRRC's bylaws, rules, regulations and restrictions of record, shall purchase a Lot or Living Unit in a PRRC to assure that the PRRC does not have its age-restricted status pursuant to 42 U.S.C. 3601 et seq. revoked and otherwise which require that residents comply with the provisions, stipulations and restrictions regarding senior communities allowing occupancy of units by persons fifty-five (55) years of age or older, as contained in the Federal Fair Housing Act, as amended in 1988. Ownership of the residential units and the area comprising a PRRC may be in accordance with the provisions of N.J.S.A. **45:22A-21** et seq., or the ownership may be as is commonly referred to as "fee simple" with open space to be maintained through assessment against property owners within the confines of the community.

SECTION 2. Chapter 35 of the Township Code of the Township of Berkeley, entitled “Land Development,” is hereby amended and supplemented so as to amend §35-101.12, entitled “Maintenance of Association-Owned Properties”, which shall now read as follows:

§35-101.12 Maintenance of Association-Owned Properties.

The maintenance of the green areas, private roadways, driveways, common courtyards, recreational areas, lakes and other improvements not intended to be individually owned shall be provided by an association organized under the Nonprofit Corporation Statute of the State of New Jersey (Title 15) and formed for that purpose. The applicant shall, in the form restrictions and covenants to be recorded, provided that title to the aforesaid enumerated areas shall be conveyed to the association, whose members shall be owners of lots who are only persons fifty-five (55) years of age or older, along with either their respective spouse or domestic partner, or other interests, or to such other persons as a majority of the members shall designate from time to time by duly adopted bylaws. Such restrictions and covenants shall mandate that in accordance with 24 CFR 100.306(4), 24 CFR 100.306(5) and 24 CFR 100.306(6) only persons fifty-five (55) years of age or older, along with either their respective spouse or domestic partner, **or otherwise if expressly authorized by the PRRC’s bylaws, rules, regulations and restrictions of record**, shall purchase a Lot or Living Unit in a PRRC to assure that the PRRC does not have its age-restricted status pursuant to 42 U.S.C. 3601 et seq. revoked and further provide that the same shall not be altered, amended, voided or released, in whole or in part, without the written consent of the Township of Berkeley by resolution duly adopted at a regular

meeting of the Township Council and except upon proper notice being given by the applicant or any other party in interest to all owners of lots in the PRRC.

SECTION 3. Chapter 35 of the Township Code of the Township of Berkeley, entitled “Land Development,” is hereby amended and supplemented so as to amend §35-101.14, entitled “Procedural Requirements”, so as to amend subsection “c,” which shall now read as follows:

§35-101.14 Procedural Requirements.

- c. The documents shall be forwarded to the Board and shall be subject to the review of the Board and of the Township Council as to their adequacy in ensuring that the community shall be constituted so as to be consistent with the purposes and requirements of this section, including the mandate that in accordance with 24 CFR 100.306(4), 24 CFR 100.306(5) and 24 CFR 100.306(6) only persons fifty-five (55) years of age or older, along with either their respective spouse or domestic partner, or otherwise if expressly authorized by the PRRC’s bylaws, rules, regulations and restrictions of record shall purchase a Lot or Living Unit in a PRRC to assure that the PRRC does not have its age-restricted status pursuant to 42 U.S.C. 3601 et seq. revoked. The proposed documents and restrictions shall indicate a comprehensive and equitable program for the orderly transition of control over the homeowners’ association from the applicant or the developer to the actual homeowners in the community.

SECTION 4. After introduction of this ordinance, the Township Clerk shall send a copy of this ordinance to the Township Planning Board for its review and comment. The Township shall send a copy of the ordinance to the Ocean County Planning Board pursuant to N.J.S.A. 40:55D-16.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law and the filing of the adopted ordinance with the Ocean County Planning Board.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

CARMEN F. AMATO, JR., Mayor

SOPHIA GINGRICH, Council President
JOHN BACCHIONE, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on February 28, 2022, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 29th day of March 2022, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

BEVERLY M. CARLE, RMC
Township Clerk, Township of Berkeley