

**BERNARDSVILLE BOROUGH
ORDINANCE # 2018-1779**

**AN ORDINANCE CONCERNING USES PERMITTED IN THE I INDUSTRIAL
DISTRICT AND AMENDING CHAPTER XII OF THE BOROUGH LAND
DEVELOPMENT CODE ENTITLED “ZONING”**

***STATEMENT OF PURPOSE:** To repeal Ordinance #15-1699 which added a materials recovery facility as a principal permitted use in the I Industrial District*

WHEREAS, Ordinance #15-1699, adopted August 10, 2015, amended the Borough Land Use Ordinance to include a materials recovery facility as a principal permitted use in the I Industrial District; and

WHEREAS, lots 2 and 2.23-2.49 in block 100 and lots 1 and 2 in block 145 (hereinafter referred to as the “Quarry Site”) comprise the I Industrial District; and

WHEREAS, subsequent to the adoption of Ordinance #15-1699, the Borough entered into an agreement with the Fair Share Housing Center (“FSHC”) to settle the Borough’s Mt. Laurel Declaratory Judgment action; and

WHEREAS, that settlement, as memorialized in a November 22, 2017 letter agreement, provided in relevant part that “The Borough will provide overlay zoning to lots 2 and 2.23-2.49 in block 100 and lots 1 and 2 in block 145 (the “Quarry Site Overlay”) permitting 340 total units, including 51, or 15%, affordable family rental units . . .”; and

WHEREAS, pursuant to the settlement agreement with FSHC, the Borough Planning Board adopted a Housing Element and Fair Share Plan (“HEFSP”) on May 24, 2018, which states that:

“The total area of the quarry site is 72.87 acres of which 28.66 acres are developable . . . The Borough will provide overlay zoning permitting 340 total units, including 51, or 15% affordable family rental units . . .”; and

WHEREAS, the HEFSP and the terms of the settlement agreement with FSHC were implemented by the Borough Council on June 11, 2018 when it adopted Ordinance #18-1772 entitled “An Ordinance Adopting Zoning Regulations Necessary to Implement the Borough’s Mt. Laurel Settlement Agreement with Fair Share Housing Center . . . ”; and

WHEREAS, Ordinance #18-1772 provides in Section 3 that:

Paragraph 'a' entitled 'Zoning Map Amendments' in subsection 12-2.2 entitled Zoning Map' is hereby supplemented and amended by adding the following new paragraphs which read as follows:

"3. The Zoning Map is amended to change the designation of Block 100, Lots 2 and 2.23-2.49 and Block 145, Lots 1 and 2, Quarry Site to AHO-4 Affordable Housing Overlay 4 in addition to its zoning designation of I Industrial District.

WHEREAS, Ordinance #18-1772 goes on to create a new “AHO-4 Affordable Housing District” on the Quarry Site, the primary intended use of which is “Affordable multi-family dwellings”; and

WHEREAS, the adoption of the HEFSP by the Planning Board on May 29, 2018 rendered Ordinance #15-1699 inconsistent with the Master Plan;

NOW THEREFORE, BE IT ORDAINED by the Council of the Borough of Bernardsville in the County of Somerset, State of New Jersey that Chapter XII of the Borough Land Use Code Entitled “Zoning” is hereby amended as follows:

Section 1. Section 1-3.2 entitled “Definitions” is amended by deleting the definitions of “Materials Recovery Facility”, “Construction and Demolition Solid Waste” and “Bulky Solid Waste”.

Section 2. Section 12-18.1 entitled “Primary Intended Use [in the I Industrial District]” is amended by deleting subparagraph “j” entitled “Materials Recovery Facility” in its entirety.

Section 3. Section 12-18.1 is further amended by deleting subparagraph “k” in its entirety.

Section 4. Section 12-18.1 is further amended by revising subparagraph “h” to read as follows:

“h. Recycling facility for the recycling of concrete, trees, tree parts, asphalt and soil.”

Section 5. Any or all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

Section 6. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 7. This ordinance shall become effective immediately upon final passage and publication as required by law.

ATTEST:

Anthony Suriano, Borough Clerk

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

By: _____
Kevin Sooy, Mayor

1st Reading and Introduction: _____
1st Publication: _____
Referral to Planning Board: _____
Notice to County Planning Board Prior to Adoption: _____
Notice to Clerks of Adjoining Municipalities (if required): _____
Notice to Affected Property Owners (if required): _____
2nd Reading and Adoption: _____
2nd Publication: _____
Filing with County Planning Board: _____

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DELETIONS TO THE LAND USE CODE ARE SHOWN BY STRIKE-THROUGH:

1-3.2 Definitions.

~~Bulky Solid Waste shall mean large items of waste material, such as appliances and furniture. (Ord. No. 2015-1699 § 1)~~

~~Construction and Demolition Solid Waste shall mean building material and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures. (Ord. No. 2015-1699 § 1)~~

~~Materials Recovery Facility shall mean a small scale recovery solid waste facility which is primarily designed, operated and permitted to process a nonhazardous solid waste stream by utilizing manual and/or mechanical methods to separate from the incoming waste stream categories of useful materials which are then returned to the economic mainstream in the form of raw materials or product of reuse. (Ord. No. 2015-1699 § 1)~~

12-18 I INDUSTRIAL DISTRICT.

12-18.1 Primary Intended Use.

In the Industrial District a building may be erected or used and a lot may be used or occupied for any of the following purposes and uses and no other:

a. The processing of stone, trees, tree parts, or rock products. Processing shall include grinding, polishing, coloring and otherwise treating the raw materials, as well as, the further use of such products in the manufacture of derivative or secondary products which are substantially different in form or character from the original raw materials.

b. Bulk storage, wholesale and warehousing. (1) Wholesale establishments including, but not limited to, lumber and building materials sales, machinery sales and service, contractors' heavy equipment sales, rental and service and nursery and landscaping sales; (2) the storage of building material, trees, tree parts and bulk materials; (3) the parking or storage of vehicles or the maintenance or repair of commercial and industrial vehicles or equipment; and (4) parcel delivery and service distribution facilities.

c. Shops such as construction and industrial trade shops, boat works (custom building and repair), ornamental iron workshops and monument works.

d. The manufacture or assembly of small parts and equipment.

e. Public utilities and facilities.

f. Self-storage facilities.

g. Fuel oil storage and distribution.

h. Recycling facility for the recycling of ~~concrete, trees, tree parts, asphalt and soil.~~

i. Retail sales shall be allowed as an accessory use incidental and subordinate to uses permitted in this zone. Areas devoted to retail sales shall be limited to one thousand (1,000) square feet.

~~j. Materials recovery facility shall be subject to the following:~~

~~1. Materials to be recovered and recycled are limited to construction, demolition, and bulky solid waste, and~~

~~2. Demonstration that the applicant user can comply with all Somerset County and State Department of Environmental Protection rules and regulations, including, but not limited to, N.J.A.C. 7:26-2.1 et seq; and~~

~~3. Capacity of facility is less than one hundred (100) tons per day; and~~

~~4. All construction, demolition and bulky solid waste materials shall be delivered, separated and processed within an enclosed building.~~

~~(Ord. No. 2015-1699 § 2)~~

~~k. Other accessory uses on the same lot and customarily incidental to the principal use, such as office and shipping facilities, machine shop, locker room, boiler room, scale house, concrete plant, asphalt plant and rock crushers. (Ord. No. 2015-1699 § 2)~~

