

ORDINANCE NO. 12-02
INTRODUCTION DATE: 01-18-12
ADOPTION DATE: 02-15-12

AN ORDINANCE AMENDING CHAPTER II (ADMINISTRATION), BY ADDING A NEW ARTICLE VIII, SECTION 2-70 (FAITHFUL ADHERENCE TO OATH OF OFFICE), CHAPTER XXXV (LAND USE AND DEVELOPMENT REGULATIONS), SECTION 3-1 (PLANNING BOARD), SECTION 3-2 (ZONING BOARD OF ADJUSTMENT), SECTION 3-6 (ZONING OFFICER) AND 9-2 (DEVELOPMENT APPLICATION REQUIREMENTS) OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

BE IT ORDAINED by the Mayor and Township Committee of the Township of Millstone, County of Monmouth and State of New Jersey as follows (additions are underlined, and deletions are in [~~brackets~~):

I

Chapter II, Administration, Article VIII, Section 2-70, Faithful Adherence to Oath of Office, is hereby created to read as follows:

2-70 FAITHFUL ADHERENCE TO OATH OF OFFICE.

2-70.1 Preamble.

N.J.S.A. 41:1-1 et. seq. prescribes an oath of office for elected and appointed public officials in New Jersey which oath, among other things, pledges that the public official will faithfully uphold the laws of the State of New Jersey and the laws of the United States; and

The United States Government has enacted laws declaring certain conduct and actions to be in violation of the criminal laws of the United States.

The State of New Jersey has, likewise, enacted laws declaring certain conduct and actions to be in violation of the criminal laws of the State of New Jersey.

2-70.2 Potential Conflict with Oath of Office.

a. A potential conflict can arise with local officials' oaths of office if the State of New Jersey, through the enactment of civil laws, provides and allows for actions by third parties which may be in clear violation of the criminal laws of the United States.

b. This conflict can impact local officials in those circumstances where regulatory law requires local approval(s) to be received from local officials so that third parties may undertake actions or engage in conduct which may be consistent with New Jersey civil law; but, in violation of the criminal laws of the United States.

2-70.3 Faithful Adherence to Oath of Office Required.

a. It is the intention, indeed the obligation, of the government of the Township of Millstone to not take any action in furtherance of or to promote the violation of the criminal laws of the United States.

b. No public official, agency, board, commission, council, employee or agent of the Township shall take any action which advances or promotes the violation of the criminal laws of the United States or the State of New Jersey.

c. All such officials, agencies, boards, commissions, councils, agents and employees of the Township shall not neglect their duty to process applications and otherwise perform in accordance with the Municipal Land Use Law and such other laws as may apply to the processing of applications.

II

Chapter XXXV, Land Use and Development, Article III, Administration and Procedures, Section 3-1, Planning Board, Section 3-2, Zoning Board of Adjustment and 3-6, Zoning Officer, is hereby amended to read as follows:

3-1 PLANNING BOARD.

3-1.8 Powers and Duties Generally.

a. – j. – No change.

k. To comply with Article VIII, Section 2-70 of the Revised General Ordinances of the Township of Millstone.

3-2 ZONING BOARD OF ADJUSTMENT.

3-2.6 Powers And Duties.

a. – b. – No change.

c. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of this Chapter in accordance with the general or specific rules contained herein and with the general rules hereby laid down that equity shall be done in cases

where the strict construction of the provisions of this Chapter would work undue hardship. The powers and duties of the Board having been delegated to an impressed upon it by Statute, the Board shall in all cases follow the provisions applicable to it in N.J.S.A. 40:55D-1 et seq., or subsequent Statutes in such case made and provided, and in compliance with Article VIII, Section 2-70 of the Revised General Ordinances of the Township of Millstone, and shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeal or application may properly be filed with the Board for its decision thereon.

3-6 ZONING OFFICER.

3-6.1 Enforcement. The provisions of this Chapter shall be administered by the Zoning Officer of the Township. In no case shall a permit be granted for the construction or alteration of any building where the proposed construction, alteration or use thereof would be in violation of any provision of this Chapter or of Article VIII, Section 2-70 of the Revised General Ordinances of the Township of Millstone. It shall be the duty of the Zoning Officer or his duly authorized assistants to cause any buildings, plans or premises to be inspected or examined and to order in writing the remedying of any condition found to exist in violation of any provisions of this Chapter and he shall have the right to enter any building or premises during the daytime in the course of his duties.

III

Chapter XXXV, Land Use and Development, Article IX, Development Application Requirements, Section 9-2, Development Application Requirements, is amended by amending Subsection 9-2.1, Required Documents, Schedule 4, and adding a new Section, Section 9-2.5 to read as follows:

9-2 DEVELOPMENT APPLICATION REQUIREMENTS.

9-2.1 **Required Documents.** – NOTE TO CODIFIER: This Section 9-2.1, Schedule 4, is hereby amended by adding a new Part XII, Affidavit of Compliance with Laws, which will read as follows:

Schedule 4, Part XII

XII. Affidavit of Compliance with Laws.

I, _____, of full age, being duly sworn according to law, on my oath deposes
and say that:

1. I have firsthand knowledge of facts which allow me to sign this Affidavit.
2. I have the authority to bind the applicant and to sign this Affidavit on behalf of the applicant.
3. I am fully familiar with all use and activity sought to be allowed by virtue of the instant application and I certify such use

or activity shall not be in violation of the laws, criminal or civil, of:

- a. the United States of America,
- b. the State of New Jersey,
- c. the County of Monmouth, or
- d. the Township of Millstone.

4. To the extent necessary, as to paragraph 3. above, I have relied upon the written advice/interpretation of an attorney at law of the State of New Jersey, which will be produced upon request of the Administrative Officer.

9-2.5 No Violation of Federal or State Law.

a. No application shall be deemed complete without submission of a duly executed “Affidavit of Compliance with Laws” as set forth in Schedule 4, Part XII.

b. No application shall be approved for any use, activity or conduct which would violate the civil or criminal laws of:

- 1. the United States of America,
- 2. the State of New Jersey,
- 3. the County of Monmouth, or
- 4. the Township of Millstone.

IV

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

V

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

VI

This Ordinance shall take effect upon adoption and publication according to law and filing with the Monmouth County Planning Board.

EXPLANATORY STATEMENT:

This Ordinance codifies the principle of faithful adherence to the Oath of Office and amends the Township's Land Use and Development Regulations accordingly.