

**TOWNSHIP COUNCIL OF MOUNT HOLLY TOWNSHIP
BURLINGTON COUNTY, NEW JERSEY**

ORDINANCE NO. 2022-6

**ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MOUNT
HOLLY AMENDING CHAPTER 149 ENTITLED “LAND USE” PART 3
ENTITLED “ZONING” TO CREATE THE AH INCLUSIONARY OVERLAY
RESIDENTIAL DISTRICT**

WHEREAS, the Township of Mount Holly filed a declaratory judgment action captioned In The Matter of the Application of Mount Holly Township, Superior Court of New Jersey, Law Division – Burlington County, Docket No. BUR-L-1623-15 (the “Mt. Laurel Litigation”) following the New Jersey Supreme Court’s decision in the matter of In Re Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) wherein the Supreme Court directed that municipalities were required to file declaratory judgment action in the Superior Court to evaluate compliance with their Mount Laurel obligations in order to maintain immunity from builder’s remedy litigation; and

WHEREAS, the Court appointed Mary Beth Lonergan, PP, AICP, to serve as the Special Master in the Mt. Alure Litigation to advise the Court and the parties on affordable housing compliance issues; and

WHEREAS, the Fair Share Housing Center (“FSHC”) is a Supreme Court designated interested party in this Mt. Laurel Litigation to advocate on behalf of low and moderate income households in the State of New Jersey and the County of Burlington; and

WHEREAS, the Township entered into a Settlement Agreement on February 11, 2019 with FSHC (the “Original Settlement Agreement”) which established the Township’s affordable housing obligation for the time period 1999-2025 and the Court entered an Order for Fairness and Compliance of May 23, 2019 which approved the Settlement Agreement and a Final Judgment of Compliance and Repose was entered on June 26, 2020; and

WHEREAS, on June 25, 2021, Virtua Memorial Hospital, Burlington County (“Virtua”), commenced an action seeking relief from certain provisions of the Final Judgment of Compliance and Repose entered by the Court with regard Overlay Zoning Ordinance No. 2019-11 (the “Virtua Action”); and

WHEREAS, after negotiation with FSHC and Virtua and the realization that the Virtua properties are no longer likely to produce a realistic opportunity for affordable housing, the Township and FSHC have negotiated an amended agreement to ensure the Township is creating new opportunities for affordable and inclusionary development (the “Amended Settlement Agreement”); and

WHEREAS, included in the Amended Settlement Agreement, and in resolution of the Virtua Action, the Township has agreed to adopt an overlay zoning ordinance to permit

multifamily apartments and townhomes up to four-stories at 20 units per acre with a 20% affordable housing set-aside on certain properties within the Township; and

WHEREAS, this Ordinance having been referred to the Township of Mount Holly Planning Board (the “Planning Board”) for its review regarding the Ordinance’s consistency with the Township of Mount Holly Master Plan, as required by the Municipal Land Use Law, N.J.S.A. 40:55D-26; and

WHEREAS, the Planning Board having reviewed this Ordinance for consistency with the Master Plan during its regular public meeting held on or about May 16, 2022; and having adopted *Resolution No. 2022-12: A Resolution of the Planning Board of the Township of Mount Holly Referring Ordinance No. 2022-6, 2022-7 and 2022-8 to the Township Council of Mount Holly as Being Consistent with The Master Plan of the Township of Mount Holly;*” and

WHEREAS, upon the introduction and adoption of this Ordinance, Township Council has simultaneously introduced and adopted **ORDINANCE NO. 2022-8** ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MOUNT HOLLY RESCINDING ORDINANCE 2019-11 ENTITLED “ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MOUNT HOLLY AMENDING CHAPTER 149 ENTITLED “LAND USE” PART 3 ENTITLED “ZONING” TO CREATE THE OB INCLUSIONARY OVERLAY RESIDENTIAL DISTRICT (“Ordinance No. 2022-8”); and

WHEREAS, it is the intent of this Ordinance to establish a new **Chapter 149, Part 3, Article XXA** of the Township Code to replace the prior Article XXXA established by Ordinance No. 2019-11 and rescinded by Ordinance No. 2022-8; and

WHEREAS, adequate notice of this Ordinance having been provided at least ten (10) days prior to second reading of this Ordinance to those persons entitled to notice pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-62.1; and

WHEREAS, the passage of this Ordinance is in the public interest of the Township of Mount Holly and will promote the health, safety, and general welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Township of Mount Holly, Burlington County, New Jersey, that the Land Development Regulations set forth in Chapter 149, Part 3 of the Code of the Township of Mount Holly (the “Code”) are hereby amended and supplemented in order to establish new **Article XXXA** thereof, to be entitled “**AH Inclusionary Overlay Residential District,**” as set forth below:

§ 149-187.2. Purpose and area of application.

- A.** As part of an effort to provide affordable housing, the Township shall implement an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing that is affordable to low and moderate income households on the following Block and Lots:

Block 66.02, Lots 1, 1.01, 2, 6, 6.05
Block 84, Lots 33, 34.01, 34.02, 34.04, 35-40, 40.01, 52, 65, 65.01
Block 112, Lots 14-21, 15.01, 16.01, 22.01, 22
Block 125, Lots 9, 9.01

- B.** This Ordinance establishes the AH Inclusionary Overlay Residential Zone and permits the creation of multifamily apartments and townhomes up to four stories at 20 units per acre and a twenty (20%) percent affordable housing set-aside on the property.
- C.** Provided that such housing complies with the following inclusionary set-aside requirements and with the requirements of this Ordinance:
 - (1)** At least fifty percent (50%) of the units shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - (2)** At least twenty-five percent (25%) of the units shall be met through rental units, including at least half in rental units available to families.
 - (3)** At least require thirteen percent (13%) of all units referenced in this Agreement shall be very low income units at 30% or less of median income, with at least half of the very low income units being available to families.
 - (4)** The affordable units in the overlay zoning shall be available to families.
- D.** The overlay zoning shall remain in place for a period of at least twenty (20) years from the effective date of this Ordinance.

§ 149-187.3 Special Rules

- A.** Relative to any inclusionary development relating to the apartments and the multifamily units that requires at least 20% of the residential units be affordable to low and moderate income households, in the event that 20% of the total number of residential units does not result in a full integer, the developer/property owner shall refer to § 143 with regard to addressing the fractional unit.
- B.** Where this Ordinance contradicts §143 of the Township's Affordable Housing Ordinance. the effects and requirements of this Ordinance shall supersede the requirements of §143.

§ 149-187.4 Primary intended uses.

The following principal uses and structures shall be permitted in the AH Inclusionary Overlay Residential Zone:

- A. Apartments
- B. Multi-Family Units Including Townhouses

§ 149-187.5. Accessory uses.

Permitted accessory uses shall be limited to those uses customarily incidental to the principal uses permitted in this District, including but not limited to clubhouses, pools, tennis courts and similar personal recreation facilities for the exclusive use of the residents-and guests of the development, etc.

§ 149-187.6. Prohibited uses.

Any use other than the uses permitted by §149-187.4 and -187.5 shall be prohibited.

§ 149-187.7 Lot, bulk and intensity of use regulations.

All buildings shall be subject to the following regulations:

- A. Maximum Density. Shall comply with the requirements of Attachment 1.
- B. Principal building standards. Shall comply with the requirements of Attachment 1.
- C. Accessory building standards. Shall comply with the requirements of §149-48.
- D. Maximum coverage by improvements. Relative to apartments and townhouses not more than 65% of the tract area may be occupied by buildings, paved areas and other improvements. At least 35% of the tract area shall be landscaped or, in the case of wetlands, wetland transition areas, water bodies or other undevelopable areas, preserved in a natural condition.
- E. Minimum distance between buildings. Shall comply with the requirements of Attachment 1.
- F. Parking and Loading. Shall comply with the requirements of §149-83.

§ 149-187.8. Site plan review and approval.

Prior to the issuance of any construction permit, the Planning Board shall review and approve a final site plan for the project in accordance with the provisions of the Land Use Ordinance and all other applicable ordinances of the Township of Mount Holly.

BE IT FURTHER ORDAINED, that if any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that in the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township, the provisions hereof shall be determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency; and

BE IT FURTHER ORDAINED, that a copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon its passage and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire Township upon final adoption and shall become a part of the Code of the Township of Mount Holly once completed and adopted.

FIRST READING: April 25, 2022

Councilmember	Motion	2nd	Yea	Nay	Recuse	Abstain	Absent
L. Brown	X		X				
J. Codianni			X				
T. Astor						X	
C. Banks		X	X				
J. Jones			X				

SECOND READING: May 23, 2022

Councilmember	Motion	2nd	Yea	Nay	Recuse	Abstain	Absent
L. Brown		X	X				
J. Codianni						X	
T. Astor						X	
C. Banks			X				
J. Jones	X		X				

TOWNSHIP OF MOUNT HOLLY

JASON JONES, Mayor

ATTEST:

SHERRY MARNELL, Township Clerk

PUBLIC NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced and passed at a meeting of the Township Council of the Township of Mount Holly, County of Burlington, State of New Jersey, held on the **25th day of April, 2022**, and will be considered for final passage after a public hearing at a meeting of the Township Council of the Township of Mount Holly to be held on the **23rd day May 2022**.

SHERRY MARNELL, Township Clerk

CERTIFICATION OF ADOPTION

I HEREBY CERTIFY that the foregoing Ordinance was approved for final adoption by the Mayor and Township Council of the Township of Mount Holly, County of Burlington, State of New Jersey, at a regular meeting on the **23rd day of May 2022**.

SHERRY MARNELL, Township Clerk

Attachment 1