

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

**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”**

**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 rescind the overlay zoning adopted via Ordinance No. 2019-11 on Blocks 97-101 that was part of the Original Settlement Agreement; 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. 2022-6** 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 (“Ordinance No. 2022-6”); and

**WHEREAS**, it is the intent of Ordinance No. 2022-6 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 this Ordinance; 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, in the County of Burlington and State of New Jersey that the Township Code is hereby amended by rescinding Chapter 149 entitled “Land Use”, Part 3 entitled “Zoning”, Article XXXA entitled OB Inclusionary Overlay Residential District, consisting of sections 149-187.2 through 149-187.8 of the Township Code.

**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause, or provision of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

**BE IT FURTHER ORDAINED**, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; 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 passage and publication in accordance within applicable law.

**FIRST READING:** April 25, 2022

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

**SECOND READING:** May 23, 2022

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

**TOWNSHIP OF MOUNT HOLLY**

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**JASON JONES, Mayor**

**ATTEST:**

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**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 **25<sup>th</sup> 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 **23<sup>rd</sup> day May 2022**.

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**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 **23<sup>rd</sup> day of May 2022.**

**SHERRY MARNELL, Township Clerk**