

TOWNSHIP OF BURLINGTON

ORDINANCE

ORDINANCE AMENDING BURLINGTON CODE §330 TO CREATE THE "RESIDENTIAL MULTIFAMILY AFFORDABLE ZONE III" AND REGULATIONS AT §330-38.6

WHEREAS, the Township Council determined that, in order to address its affordable housing obligation, it is necessary to create a new residential zone to be known as the Residential Multifamily Affordable (R-MFA-III) zone, being Block 98, Lot 6.03, and to adopt implementing standards and regulations, which will permit a municipally sponsored development, with one hundred percent (100%) of the units required to be affordable, non-age-restricted family rental units; and

WHEREAS, affordable rental units enable the Township to further satisfy its affordable housing obligation as these units enable the Township to receive bonus credits; and

WHEREAS, pursuant to the New Jersey Fair Housing Act as amended in March of 2024, the Township filed a declaratory judgment action on January 22, 2025 to seek approval of a Housing Element and Fair Share Plan proceedings and thereby secure protection against Mount Laurel litigation until June 30, 2035 (the "DJ Action"); and

WHEREAS, the Township subsequently entered into a Consent Order with Fair Share Housing Center ("FSHC"), who filed a challenge against the Township's Housing Element and Fair Share Plan ("HEFSP") on August 25, 2025; and

WHEREAS, pursuant to the Consent Order, Burlington prepared an Amended HEFSP that incorporates revisions identified in the Consent Order; and

WHEREAS, the HEFSP was adopted by the Township's Planning Board as an amendment to the Township of Burlington Master Plan, and endorsed by Council.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Township of Burlington as follows:

Section 1. A new section, §330-38.6, is hereby added to the Township Code creating a new zoning district known as the "Residential Multifamily Affordable III Zone (R-MFA-III)," which shall read as follows:

§330-38.5. Residential Multifamily Affordable III (R-MFA-III) Zone Regulations.

- A. Intent and Purpose. The R-MFA-III district provides for a multifamily housing development in accordance with the Housing Element and Fair Share Plan. One hundred percent (100%) of all units constructed shall be deed restricted as affordable family rental units, which will enable the Township to address a significant portion of its affordable housing obligation.
- B. Permitted Principal Uses and Structures. Permitted principal uses and structures are limited to multi-family apartment buildings.
- C. Permitted Accessory Uses and Structures. The following accessory uses, and structures are permitted:
 - (1) Clubhouse and/or community pool for the private use of residents and guests.

- (2) Outdoor recreational facilities, including, but not limited to, parks, playgrounds, barbeque areas, dog parks, and walking paths.
- (3) One unit which may be the property manager's residence, property management office, rental office, or display model.
- (4) Maintenance and storage garages.
- (5) Stormwater management facilities.
- (6) Parking facilities.
- (7) Accessory uses customarily incidental to a permitted principal use as approved by the Reviewing Board.

D. Where Permitted. The following tracts may be developed in accordance with the development regulations set forth herein for the R-MFA-III development:

- (1) Block 98, Lot 6.03

E. Development Requirements.

- (1) Affordable housing requirements. All of the dwelling units to be constructed shall be affordable to households with very-low, low-, and moderate-incomes, as defined by the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. The affordable units shall be developed in compliance with the bedroom distribution and configuration requirements established by N.J.A.C. 5:80-26 et seq. Of the total number of affordable dwelling units, at least fifty per cent (50%) of the restricted units within each bedroom distribution shall be low-income units, with no less than thirteen per cent (13%) of the total restricted units within each bedroom distribution reserved for very low-income individuals and families (earning 30% or less of median income pursuant to the Fair Housing Act). A development shall comport with all

applicable affordable housing laws and regulations, as well as ensuring each affordable unit is subject to affordability controls of at least forty (40) years from the date of initial occupancy and affordable deed restrictions as provided for by UHAC.

- (2) Unit storage. All dwelling units shall have adequate storage for clothing, trash and recycling cans, and other personal belongings.
- (3) Dwelling variation. Architectural elements such as bay or box windows, balconies, building offsets, variation of building materials and textures, and/or colors and/or other architectural elements that achieve visual interest shall be provided.
- (4) Trash and recycling. The Developer shall provide centralized facilities for trash and recycling. Such facilities shall be placed within an enclosure and screened from view. Trash collection shall be performed by a private company, unless otherwise approved by the Director of Public Works. Facilities for the collection of recyclables shall be in accordance with Chapter 512, Article II of the Township Code and as approved by the County's District Recycling Coordinator.
- (5) Pedestrian circulation. There shall be a comprehensive system of pedestrian sidewalks serving all facilities within the development, providing access to dwellings, parking areas, open spaces, recreational and other communal facilities designed in accordance with all applicable provisions of the Township Code.
- (6) Mail Delivery. Centralized location(s) for mail delivery shall be provided as approved by the local Postmaster.
- (7) Emergency Access. Adequate access for emergency vehicles shall be provided as approved by the Township Fire Official.

E. Area, yard, density, height and coverage requirements.

- (1) Minimum tract area: 15 acres.
- (2) Maximum lot coverage (total tract): 60% of the gross tract area.
- (3) Minimum tract perimeter setback for a principal building shall be fifty (50) feet. The building setback shall be increased to one hundred (100) feet if adjacent to an existing residential lot.
- (4) No principal building shall be located within 35 feet of another principal structure; however, the rear of any principal building shall be a minimum distance of 50 feet from the rear of another principal building.
- (5) Maximum building height, principal use: 3.5 stories, but not to exceed 50 feet.
- (6) Maximum building height, accessory structure: 20 feet.

F. Setback and buffering requirements.

- (1) Setbacks, parking lots. No parking space shall be closer than 10 feet to a building or within 25 feet of a tract perimeter. A setback of one hundred (100) feet shall be provided adjacent to any existing residential lot.
- (2) A minimum 100-foot wide buffer shall be provided adjacent to any existing residential lot. No clearing, land disturbance or development shall occur within the first 50 feet closest to the existing use. Permitted uses located 50 – 100 feet from the existing residential lot shall be limited to stormwater management and pedestrian/bicycle facilities.
- (3) A maximum fence height of eight (8) shall be permitted along the perimeter of the site.

G. Miscellaneous Provisions

- (1) Unless otherwise set forth in this section, the design and performance standards shall conform with RSIS and Section 330 of the Township Code. In the event of a conflict, the RSIS shall govern.
- (2) No stormwater management facility shall be located closer than fifty (50) feet from an adjoining lot line of an existing residential lot.
- (3) The Developer shall be exempt from Chapter 559 of the Code.
- (4) No buildings, structures or parking areas shall be permitted within five (5) feet of the existing 50' wide utility easement.

Section 2. Consistency Review. A copy of this Ordinance shall be referred to the Township of Burlington Planning Board following its introduction for review pursuant to N.J.S.A. 40:55D-26(a).

Section 3. Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Land Development Ordinance as a whole, or any other part thereof.

Section 4. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 5. Enactment. This Ordinance shall take effect after final passage, adoption, and publication by the Township Clerk of the Township of Burlington in the manner prescribed by law.