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August 29, 2025

Honorable Darren J. Del Sardo, P.J. Cv.
Superior Court of New Jersey, Law Division
Passaic County Courthouse
77 Hamilton Street
Paterson, New Jersey 07505

RE: In the Matter of the Borough of Totowa
Docket No.: PAS-L-396-25

Dear Judge Del Sardo:

With reference to the above noted matter and as the municipal attorney for the Borough of Totowa, the Plaintiff/Petitioner herein and pursuant to the provisions of N.J.S.A. 52:27D-304.1 and AOC Directive #14-24, please find enclosed herewith for filing with the Affordable Housing Dispute Resolution Program ("Program"), the following, to wit:

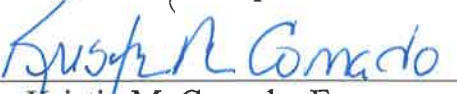
1. Draft Ordinance entitled AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA, CHAPTER 415 ENTITLED "ZONING AND LAND USE", TO CREATE NEW ARTICLES TO BE KNOWN AS INCLUSIONARY HOUSING DISTRICT; 100 PERCENT HOUSING DISTRICT AND ADULT HOUSING DISTRICT.

This document is submitted in compliance with New Jersey "Fair Housing Act," P.L. 1985, c. 222, N.J.S.A. 52:27D-301 et seq., as amended by L. 2024, c.2, and AOC Directive #14-24.

If the Court or Program requires anything further, please do not hesitate to have Your Honor's Chambers or the assigned Program Member contact the undersigned at any time.

We thank the Court and the Program for their courtesy and consideration.

Respectfully submitted,
Corrado & Corrado Esqs.

By: 
Kristin M. Corrado, Esq.
Attorneys for Plaintiff/Petitioner
Borough of Totowa

KMC:jw

Enc.

cc: Honorable Mayor and Council

Joseph Wassel, RMC, Municipal Clerk

BOROUGH OF TOTOWA

ORDINANCE NO. XX-20205

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA,
CHAPTER 415 ENTITLED “ZONING AND LAND USE”, TO CREATE NEW
ARTICLES TO BE KNOWN AS INCLUSIONARY HOUSING DISTRICT;
100 PERCENT HOUSING DISTRICT AND
ADULT HOUSING DISTRICT**

WHEREAS, the Constitution of the State of New Jersey and the decisions of the New Jersey Supreme Court, including *Southern Burlington County N.A.A.C.P. v. Mount Laurel Township*, establish the affirmative obligation of every municipality in the State to provide a realistic opportunity for the development of its fair share of the region’s present and prospective need for low- and moderate-income housing; and

WHEREAS, the Fair Housing Act of 1985 (N.J.S.A. 52:27D-301 et seq.), as amended in 2024,

WHEREAS, the Borough has reaffirmed the validity of its existing zoning mechanisms and land use policies that continue to offer realistic opportunities for affordable housing, and recognizes the need to supplement those existing tools with new districts targeted to address the Borough’s Fourth Round obligation; and

WHEREAS, to implement the strategies contained within the 2025 HEFSP and provide for the Borough’s Fourth Round fair share obligation, three new affordable housing zoning districts are hereby established, to be known as:

- **R-AH-3: Adult Housing District**
- **R-AH-4A: Inclusionary Affordable Housing District, and**
- **R-AH-4B: 100 Percent Affordable Housing District; and**

WHEREAS, the purpose of these districts is to permit and facilitate the construction of affordable housing in accordance with the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.), the Residential Site Improvement Standards (RSIS, N.J.A.C. 5:21), and applicable municipal design and development guidelines that ensure high-quality, context-sensitive, and accessible housing opportunities for low- and moderate-income households; and

WHEREAS, the Borough of Totowa finds and declares that these amendments to the zoning code are necessary and appropriate to advance its constitutional and statutory obligations, to implement its adopted HEFSP, and to protect the public health, safety, and general welfare;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Totowa, County of Passaic and State of New Jersey as follows:

the Borough Code is hereby amended to establish the R-AH-3, R-AH-4A and R-AH-4B Affordable Housing Districts, including zoning map amendments, permitted uses, bulk standards, and applicable development regulations to support implementation of the 2025 Housing Element and Fair Share Plan as follows:

1. Section 415-130.1. B Monitoring shall be amended as follows
 - A. On or before February 1st of each year, the Borough of Totowa will provide annual reports of the status of all affordable housing activity within the municipality and the Affordable Housing Trust Fund accounting though posting on the Borough's website and on the DCA website.
 - B. Midpoint Review – At the midpoint of the Borough's current affordable housing compliance period—or as otherwise specified in the Judgment of Compliance and Repose—the Borough shall prepare a Midpoint Realistic Opportunity Review. This Review shall evaluate unfulfilled affordable housing sites or mechanisms, rehabilitation progress, and unmet needs to determine whether they continue to present realistic opportunities. The Borough shall post the Review on the municipal website and submit a copy to the DCA, in a format prescribed by law.
2. Section 415-130.1.C is amended as follows:” “COAH – The Council on Affordable Housing, established by the New Jersey Fair Housing Act (NJSA 52:27D-301 et seq) abolished by pursuant to the amended New Jersey Fair Housing Act (NJSA 52:27D-304.1).
3. Section 415-130.1(E.) (4.) Rehabilitation is amended to read as follows:

The Borough of Totowa shall dedicate a minimum of \$10,000 and a maximum of \$35,000 for each unit to be rehabilitated through this program.
4. Section 415-130.1(G) Inclusionary Zone is amended to read as follows:

To implement the Fair Share Plan in a manner consistent with the terms of the settlement agreement executed on April 24, 2018 associated with the third round affordable housing obligation and a subsequent agreement executed on (TBD) associated with the fourth round affordable obligation, and to ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, The Borough of Totowa has created several inclusionary housing zones. The inclusionary housing zones identified on the Borough's Zoning Map, adopted on February 26, 2019 are R-AH and R-AH-2. An additional inclusionary housing zone is established to create additional opportunities for the construction of affordable housing as detailed in the Housing Plan Element and Fair Share Plan, dated June 1, 2025. The new inclusionary zones

identified as R-AH-3, R-AH-4A and R-AH4B on the amended Zoning Map dated (part of this ordinance).

5. New Article shall hereinafter be designated and known as R-AH-4A Affordable Housing District -3

A. Purpose. The purpose is to establish an inclusionary affordable housing zone to allow for the coordinated development and construction of multifamily rental housing that includes affordable housing as defined by the Fair Housing Act. The properties in this Zone include:

- Block 106 Lots 2, 2.01, 17 and 18,

6. Permitted uses.

A. Rental residential development. An inclusionary housing development at a maximum density of 35 units per acre with a minimum of 20% affordable housing set aside.

7. Accessory uses.

Accessory permitted uses shall be as follows

- A. Signs.
- B. Off street parking for private vehicles.
- C. Garages under or incorporated into the building design.
- D. Utilities and essential services.
- E. Typical and customary accessory uses.

8. Area, bulk, yard requirement.

Area, bulk, and yard requirements shall be as follows:

Standard	Minimum Requirement
Tract Size	1 Acre
Coverage	75%
Impervious Surface	90%
Height	3 stories/45 feet
Front Yard Setback	Prevailing setbacks of adjacent properties but not less than 5 feet.
Principal Building Side Yard Setbacks	5 feet.
Accessory structures	5 ft from any lot line.
Parking lot setbacks	5 ft. from any lot line.

9. Parking and Circulation.

A. Applicability

- i. Off-street parking and loading shall be provided for all new development, redevelopment, and site plan applications in accordance with the standards set forth herein.
- ii. Where standards of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, are applicable, those standards shall govern. In the event of a conflict between RSIS and this Section, RSIS shall prevail.

B. Parking Space Dimensions

- i. Standard off-street parking spaces shall measure not less than nine (9) feet in width by eighteen (18) feet in length.
- ii. Parallel parking spaces shall measure nine (9) feet in width by twenty-four (24) feet in length.
- iii. Compact parking spaces may be permitted only where expressly authorized by the Planning Board and shall measure eight (8) feet in width by sixteen (16) feet in length.
- iv. A Maximum of one loading and unloading area shall be provided.
 1. The loading space shall be a minimum of 12 ft wide by 35 feet long.
 2. The loading space shall be located adjacent to any service entrance and service elevator, not the main lobby area.

C. Accessible Parking

- i. All accessible parking spaces shall be provided in compliance with the Americans with Disabilities Act (ADA) and the New Jersey Barrier Free Subcode (N.J.A.C. 5:23-7).
- ii. Required accessible spaces shall be located closest to accessible building entrances and connected by accessible routes.

D. Drive Aisles and Circulation

- i. Two-way drive aisles shall be a minimum of 24 feet in width.
- ii. One-way drive aisles shall be a minimum of 18 feet in width.
- iii. There shall be no more than one access point per street frontage.

E. Surfacing, Striping, and Maintenance.

- i. All off-street parking and loading areas shall be paved with a durable, all-weather surface.
- ii. Parking spaces and circulation aisles shall be clearly striped and maintained for visibility.
- iii. All required parking and loading spaces shall be kept available for their intended purposes and shall not be used for the sale, lease, or storage of vehicles or materials.

10. Lighting Standards

- A. Low-pressure sodium or mercury vapor lighting is prohibited.
- B. Parking lot lighting shall be no more than 20 feet in height.
- C. A minimum average of 0.5 footcandles shall be maintained within the parking lot and over all pedestrian walkways.
- D. Parking lot fixtures shall be full cut off,
- E. Footcandles at the property line shall not exceed one footcandle, except where there are entrance/exit driveways.

11. Buffering

- A. All buildings and parking areas shall be buffered from adjoining residential uses or residential zoning districts by a minimum 15-foot-wide landscaped buffer. The buffer shall consist of a combination of evergreen trees, deciduous trees, and other plantings arranged in a manner that effectively softens and screens views from adjacent residential properties. This buffering requirement shall not apply where a building or parking area adjoins property containing mixed-use or commercial development.

12. Trash and recyclable materials.

- A. Collection - It shall be the responsibility of the property owner to provide for the collection and disposal of solid waste and recyclable materials at a minimum of once per week, or more frequently as may be necessary to prevent overflow and nuisance conditions.
- B. All solid waste and recycling containers shall be located a minimum of ten (10) feet from any adjoining property line and shall not be located within any required front yard or buffer area.
- C. Screening. All receptacles shall be screened from public view by an enclosure consisting of opaque fencing, walls, or landscaping not less than six (6) feet in height, or shall be located within the principal building in a designated refuse area. Enclosures shall include self-closing, lockable gates to prevent access by animals or unauthorized persons.
- D. Solid waste and recycling storage areas shall not encroach into any required landscaped buffer, yard setback, or circulation aisle.
- E. Construction Standards.
 - i. Enclosures shall be constructed of durable, weather-resistant materials such as masonry, heavy-duty fencing, or equivalent approved by the Planning Board.
 - ii. Enclosure design shall complement the principal building architecture to the greatest extent practicable.

- iii. The surface of receptacle areas shall be paved with concrete or other durable, nonporous material capable of supporting collection vehicles.

F. Maintenance.

- i. All trash and recycling areas shall be maintained in a clean, sanitary, and litter-free condition.
- ii. Containers shall be kept covered at all times, and no accumulation of trash or recyclables outside of receptacles shall be permitted.
- iii. Damaged enclosures or broken gates shall be repaired or replaced promptly.

G. Access.

- i. Trash and recycling storage areas shall be designed to allow safe and convenient access by collection vehicles, without obstructing fire lanes, drive aisles, or required parking spaces.
- ii. Turning movements for refuse vehicles shall be accommodated on site wherever practicable and backing onto a public street is discouraged unless no reasonable alternative exists.

13. Affordable Unit Bedroom Mix

The required bedroom mix and unit size of affordable units in this zone is as follows:

- A. 1 Bedroom Units = 17%: 650 sq. ft.
- B. 2 Bedroom Units = 50%: 850 sq. ft.
- C. 3 Bedroom Units = 33%: 1,100 sq. ft.

14. Reasonable Compliance with Site Plan Requirement & Design Standards

- A. All affordable housing developments shall comply with the applicable site plan requirement and design and performance standards set forth in the Borough's Land Development Code found in Chapter 415, specifically Articles VIII, IX, X, XII, XII, XIII, and including but not limited to site layout, architectural design, building materials, landscaping, lighting, signage, and stormwater management. The intent of this provision is to ensure that affordable housing developments are integrated into the community in a manner that is consistent with the quality, character, and functionality of other residential and mixed-use developments permitted in the same zoning district.
- B. Reasonable waivers or exceptions from specific design standards may be considered by the Planning Board or Board of Adjustment where strict compliance would impose undue hardship, is impractical, or would not further the purposes of the Municipal Land Use Law, provided that the proposed deviation does not result in a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and zoning ordinance.

15. New Article shall hereinafter be designated and known as R-AH-4B: 100 Percent Affordable Housing District.

16. Purpose.

The purpose is to establish a 100% affordable housing zone to allow for the coordinated development and construction of multifamily housing that provides affordable housing as defined by the Fair Housing Act. The properties in this Zone include:

- Block 177 Lot 2.01

17. Permitted uses.

- A. Residential multifamily rental dwellings that shall provide 100% affordable housing development at a density of 22 units per acre.

18. Accessory uses.

- A. Signs.
- B. Off street parking for private vehicles.
- C. Garages under or incorporated into the building design.
- D. Utilities and essential services.
- E. Typical and customary accessory uses.

19. Area, bulk, yard requirement.

- A. Any residential multifamily rental dwelling providing 100% affordable housing on this site shall be constructed within the footprint and previously disturbed area of the existing hotel and banquet facility as such footprint exists on the effective date of this section, as shown on the most recent site plan or tax map on file with the Borough. Expansion beyond this footprint shall be prohibited, except for:
 - i. Architectural projections, porches, balconies, or similar features that do not result in additional land disturbance beyond the previously developed area; or
 - ii. Site improvements required to meet accessibility, fire safety, stormwater management, or utility service requirements, provided such improvements are designed to minimize disturbance of undeveloped land.

B. Bulk Standards

Where the footprint restriction in Subsection A conflicts with the bulk and yard standards below, the footprint restriction shall control, except that:

Standard	Requirement
Minimum Lot Area	3 Acres
Minimum Lot Width	300 ft
Minimum Lot Depth	400 ft.
Minimum Principal Building Setback from US Rt 46	17 ft.
Minimum Principal Building Setback from Other Streets	141 ft.
Minimum Setback from Lot 2	0 ft.
Minimum Principal Building Setback from Other Adjacent Lots.	53 ft.
Maximum Density	22 units per acre
Maximum Building Height	5 stories/76 ft
Max. Floor Area Ratio (including subterranean parking levels)	1.2
Maximum Lot Coverage (principal + accessory structures)	70%
Parking Requirements	Per RSIS standards
Accessible Units	Minimum of 5% of units must be accessible, per NJ Barrier Free Subcode

20. Parking and Circulation

A. Applicability

- i. Off-street parking and loading shall be provided for all new development, altered development, redevelopment, and site plan applications in accordance with the standards set forth herein.
- ii. Where standards of the Residential Site Improvement Standards (RSIS), N.J.A.C. 5:21, are applicable, those standards shall govern. In the event of a conflict between RSIS and this Section, RSIS shall prevail.

B. Parking Space Dimensions

- i. Standard off-street parking spaces shall measure not less than nine (9) feet in width by eighteen (18) feet in length.
- ii. Parallel parking spaces shall measure nine (9) feet in width by twenty-four (24) feet in length.
- iii. Compact parking spaces may be permitted only where expressly authorized by the Planning Board and shall measure eight (8) feet in width by sixteen (16) feet in length.
- iv. A Maximum of one loading and unloading area shall be provided.
 1. The loading space shall be a minimum of 12 ft wide by 35 feet long.

2. The loading space shall be located adjacent to any service entrance and service elevator, not the main lobby area.

C. Accessible Parking

- i. All accessible parking spaces shall be provided in compliance with the Americans with Disabilities Act (ADA) and the New Jersey Barrier Free Subcode (N.J.A.C. 5:23-7).
- ii. Required accessible spaces shall be located closest to accessible building entrances and connected by accessible routes.

D. Drive Aisles and Circulation

- i. Two-way drive aisles shall be a minimum of 24 feet in width.
- ii. One-way drive aisles shall be a minimum of 18 feet in width.
- iii. There shall be no more than one access point per street frontage.

E. Surfacing, Striping, and Maintenance.

- i. All off-street parking and loading areas shall be paved with a durable, all-weather surface.
- ii. Parking spaces and circulation aisles shall be clearly striped and maintained for visibility.
- iii. All required parking and loading spaces shall be kept available for their intended purposes and shall not be used for the sale, lease, or storage of vehicles or materials.

21. Lighting Standards

- A. Low-pressure sodium or mercury vapor lighting is prohibited.
- B. Parking lot lighting shall be no more than 20 feet in height.
- C. A minimum average of 0.5 footcandles shall be maintained within the parking lot and over all pedestrian walkways.
- D. Parking lot fixtures shall be full cut off,
- E. Footcandles at the property line shall not exceed one footcandle, except where there are entrance/exit driveways.

22. Buffering

- A. All new buildings and new parking areas shall be buffered from adjoining residential uses or residential zoning districts by a minimum 15-foot-wide landscaped buffer. The buffer shall consist of a combination of evergreen trees, deciduous trees, and other plantings arranged in a manner that effectively softens and screens views from adjacent residential properties. This buffering requirement shall not apply where a building or parking area adjoins property containing mixed-use or commercial development.

23. Trash and recyclable materials.

- A. Collection - It shall be the responsibility of the property owner to provide for the collection and disposal of solid waste and recyclable materials at a minimum of once per week, or more frequently as may be necessary to prevent overflow and nuisance conditions.
- B. All solid waste and recycling containers shall be located a minimum of ten (10) feet from any adjoining property line and shall not be located within any required front yard or buffer area.
- C. Screening. All receptacles shall be screened from public view by an enclosure consisting of opaque fencing, walls, or landscaping not less than six (6) feet in height, or shall be located within the principal building in a designated refuse area. Enclosures shall include self-closing, lockable gates to prevent access by animals or unauthorized persons. An existing enclosure maybe used, if available.
- D. Solid waste and recycling storage areas shall not encroach into any required landscaped buffer, yard setback, or circulation aisle.
- E. Construction Standards.
 - i. Enclosures shall be constructed of durable, weather-resistant materials such as masonry, heavy-duty fencing, or equivalent approved by the Planning Board.
 - ii. Enclosure design shall complement the principal building architecture to the greatest extent practicable.
 - iii. The surface of receptacle areas shall be paved with concrete or other durable, nonporous material capable of supporting collection vehicles.
- F. Maintenance.
 - i. All trash and recycling areas shall be maintained in a clean, sanitary, and litter-free condition.
 - ii. Containers shall be kept covered at all times, and no accumulation of trash or recyclables outside of receptacles shall be permitted.
 - iii. Damaged enclosures or broken gates shall be repaired or replaced promptly.
- G. Access.
 - i. Trash and recycling storage areas shall be designed to allow safe and convenient access by collection vehicles, without obstructing fire lanes, drive aisles, or required parking spaces.
 - ii. Turning movements for refuse vehicles shall be accommodated on site wherever practicable and backing onto a public street is discouraged unless no reasonable alternative exists.

24. Affordable Unit Bedroom Mix

The required bedroom mix and unit size of affordable units in this zone is as follows:

- A. 1 Bedroom Units = 17%: 650 sq. ft.
- B. 2 Bedroom Units = 50%: 850 sq. ft.
- C. 3 Bedroom Units = 33%: 1,100 sq. ft.

25. Reasonable Compliance with Site Plan Requirement & Design Standards

- A. All affordable housing developments shall comply with the applicable site plan requirement and design and performance standards set forth in the Borough's Land Development Code found in Chapter 415, specifically Articles VIII, IX, X, XII, XII, XIII, and including but not limited to site layout, architectural design, building materials, landscaping, lighting, signage, and stormwater management. The intent of this provision is to ensure that affordable housing developments are integrated into the community in a manner that is consistent with the quality, character, and functionality of other residential and mixed-use developments permitted in the same zoning district.
- B. Reasonable waivers or exceptions from specific design standards may be considered by the Planning Board or Board of Adjustment where strict compliance would impose undue hardship, is impractical, or would not further the purposes of the Municipal Land Use Law, provided that the proposed deviation does not result in a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and zoning ordinance.

26. New Article shall hereinafter be designated and known as "R-AH-3 AFFORDABLE HOUSING -3 DISTRICT".

27. Purpose.

The purpose is to establish an affordable housing zone for the existing Little Sisters of the Poor facility to permit the renovation and construction of a comprehensive, coordinated development of land for multi-family housing that would provide affordable housing that acts as an appropriate transition between single-family homes, industrial uses and a cemetery. The properties in this Zone shall include

Block 12, Lot 2

28. Permitted Uses.

A. Within the R-AH-3 District:

- (1) An inclusionary housing development at a maximum density of twenty-five (25) units per acre with a ninety percent (90%) affordable housing set-aside.

- (2) Principal permitted uses. The principal permitted uses are multi-family dwellings.

B. Prohibited uses. Any use not listed as permitted is prohibited.

29. Accessory Uses.

Accessory permitted uses shall be as follows:

- A. Signs.
- B. Noncommercial swimming pools, tennis courts and other indoor or outdoor recreation facilities.
- C. Private garages and off-street parking for private vehicles.
- D. Garages under or incorporated into the building design.
- E. Dining venues.
- F. Assembly and common areas.
- G. Typical and customary accessory uses.

30. Area, Bulk and Yard Requirements.

- A. Area, bulk and yard requirements shall be as follows:

MINIMUMS	MULTI-FAMILY
Tract Size	5 aces
Tract Frontage	200 feet
Tract Setback*	5 feet
Lot Size	
Lot Width	
Lot Depth	
Building Wall Front-to-Front Setback	75 feet
Building Wall Side-to-Side Setback	35 feet
Building Wall Rear-to-Rear Setback	50 feet
Building Wall Side-to-Rear or Side-to-Front Setback	40 Feet
MAXIMUMS	MULTI-FAMILY
Building Coverage	65%
Impervious Coverage	80%
Building Length	600 feet
Number of Units per Building	
Height in Feet	40 feet
Height in Stories	4

- B. Site Standards. Developments within the R-AH-3 District shall comply with the site standards in Section 415-138 through 415-144 subject to adapting and renovating existing structures previously utilized by Little Sisters of the Poor.

31. Reasonable Compliance with Site Plan Requirement & Design Standards

- A. All affordable housing developments shall comply with the applicable site plan requirement and design and performance standards set forth in the Borough's Land Development Code found in Chapter 415, specifically Articles VIII, IX, X, XII, XII, XIII, and including but not limited to site layout, architectural design, building materials, landscaping, lighting, signage, and stormwater management. The intent of this provision is to ensure that affordable housing developments are integrated into the community in a manner that is consistent with the quality, character, and functionality of other residential and mixed-use developments permitted in the same zoning district.
- B. Reasonable waivers or exceptions from specific design standards may be considered by the Planning Board or Board of Adjustment where strict compliance would impose undue hardship, is impractical, or would not further the purposes of the Municipal Land Use Law, provided that the proposed deviation does not result in a substantial detriment to the public good or substantially impair the intent and purpose of the zone plan and zoning ordinance.