

**HARDING TOWNSHIP
ORDINANCE #09-2025
ORDINANCE AMENDING CHAPTER 225, SECTION 139, “AHO-2 AFFORDABLE
HOUSING OVERLAY 2 ZONE,” TO CHANGE CERTAIN REQUIREMENTS WITHIN
THE AHO-2 ZONE**

WHEREAS, in compliance with the New Jersey Supreme Court’s decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), on or about July 1, 2015, the Township filed an action with the Morris County Superior Court of New Jersey, entitled In the Matter of the Application of the Township of Harding, Docket No. MRS-L-1672-15, seeking a Judgment of Compliance and Repose approving its Housing Element and Fair Share Plan, in addition to related forms of relief; and

WHEREAS, on January 28, 2019, the Township adopted Ordinance 05-19, which established the AHO-2 affordable housing overlay zone in furtherance of the Township’s obligations under the Mount Laurel doctrine, which was subsequently amended by Ordinance 27-2024 on December 9, 2024; and

WHEREAS, the AHO-2 overlay zone was included in the Township’s Housing Element and Fair Share Plan (“Plan”), which Plan was approved via Judgment of Compliance and Repose (“JOR”), dated June 17, 2020; and

WHEREAS, on March 20, 2024, the Governor signed into law amendments to the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. (the “Amended FHA”) that governs the affordable housing process for the Fourth Round and beyond; and

WHEREAS, the Amended FHA includes a process that allows municipalities to demonstrate their compliance with the Mount Laurel doctrine and receive a Compliance Certification from the Affordable Housing Dispute Resolution Program (the “Program”) protecting them from Exclusionary Zoning Litigation (as defined in the Amended FHA); and

WHEREAS, on June 23, 2025, pursuant to Resolution PB #05-2025, the Township Planning Board adopted a Housing Element and Fair Share Plan dated June 12, 2025 (the “Township HEFSP”); and

WHEREAS, on June 24, 2025, pursuant to Resolution TC 25-126, the Township Council endorsed the Township HEFSP; and

WHEREAS, the Township submitted the Township HEFSP to the Program on June 24, 2025; and

WHEREAS, the deadline for interested parties to file an objection to the Township HEFSP was August 31, 2025; and

WHEREAS, 1103 Mt. Kemble 07960 LLC, the contract purchaser of 1103 Mt. Kemble Road, known as Block 33.03, Lot 4, and 1105 Mt. Kemble 07960 LLC, the owner of 1105 Mt. Kemble Road, known as Block 33.03, Lot 18 (collectively the “Developer”) and the Township entered into a Settlement Agreement on August 11, 2025, to avoid an objection to the Township HEFSP; and

WHEREAS, these amendments are designed to effectuate the terms of the Settlement Agreement.

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BE IT ORDAINED, by the Township Committee of the Township of Harding, County of Morris, State of New Jersey, as follows:

Purpose: An ordinance amending Chapter 225, Section 139, "AHO-2 Affordable Housing Overlay 2 Zone," to change certain requirements to better achieve the production of affordable housing within the AHO-2 zone.

SECTION I. The Municipal Code, Chapter 225, Section 139, "AHO-2 Affordable Housing Overlay 2 Zone," is hereby amended and shall read as follows: [New language in **bold and underlined**; Deleted language in ~~double-strike through.~~]

- A. Purpose. The purpose of the AHO-2 Affordable Housing Overlay 2 Zone is to provide mechanisms for partially addressing the Township's affordable housing obligation consistent with the adopted Housing Element/Fair Share Plan. The overlay zone permits **inclusionary residential and** mixed-use development with ~~either a 15% or~~ 20% affordable housing set-aside in the southern portion of the B-2 Business Zone, OB Office Building Zone, and R-1 Residence Zone along Route 202/Mount Kemble Avenue. The underlying zoning remains in effect and any use permitted in the underlying zones continues to be permitted. The properties subject to the AHO-2 Affordable Housing Overlay 2 Zone are shown on the amended Zoning Map of the Township of Harding. No building, structure or premises shall be used, erected or altered except for the principal and accessory uses found herein.
- B. Principal permitted uses. All development shall be subject to the density provisions of this section. Sites may develop with or without a commercial component. Sites may be developed with multiple principal buildings and permitted uses on one lot.
 - (1) Mixed-use inclusionary development consisting of commercial uses permitted by B-2 Business Zone and multifamily residential. Sites may be developed with commercial and residential in the same building or in separate/multiple buildings on site. The sites may be developed through adaptive reuse of the existing buildings, adaptive reuse and expansion of existing buildings, or the demolition and construction of new buildings.
 - (2) Townhouses;
 - (3) Stacked townhouses i.e. interlocking multi-level multi-family dwelling units such that a unit may be situated partially or wholly above or below another similar unit. No more than three such units may be included in a building between two party walls which extend from the foundations to and through the roof.
 - (4) **Multi-family residential without a commercial component for the blocks and lots identified in subsection D(1).**
- C. Accessory uses permitted.

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- (1) Garages and off-street parking facilities.
 - (2) Administrative offices for an on-site resident superintendent, property manager, or Township personnel.
 - (3) Sewage treatment or conveyance facilities, as appropriate, including one or more pumping stations serving the principal use(s).
 - (4) Storage and maintenance areas or buildings.
 - (5) Storage areas for solid waste and recycling.
 - (6) Other uses customarily incidental and accessory to the principal use(s), such as fencing and signs.

D. Maximum residential densities.

(1) The following blocks and lots may be developed at a maximum density of six units per acre for lots under two acres; eight units per acre for existing lots or assembled lots that are parcels two acres or more in size:

- a. Block 32, Lots 1.02, 4, 9.01 and 9.02;
- b. Block 46.01, Lots 8 and 9.01;
- c. Block 33.03, Lots 3.02, 4, 8, 18, and 19.

(2) The blocks and lots identified in subsection D(1) may be developed at a maximum density of ten units per acre if the following standards are met:

- a. **The lot or assembled lots have an area of two acres or greater; and**
- b. **The development will utilize an on-site package treatment facility for wastewater treatment and not public sewer.**

(3) ~~(2)~~ Block 46.01 Lots 9 and 10 and Block 46.01 Lot 13.02 may be developed at a maximum density of eight units per acre for for-sale projects or 10 units per acre for rental projects:

- a. Eight units per acre for for-sale units (inclusive of an affordable housing set-aside of at least 20%)
- b. Notwithstanding the foregoing, a density of 8.2 units per acre shall be permitted for for-sale units if:
 - i. At least one full unit of additional affordable housing is proposed in excess of the minimally required 20% set-aside (which includes rounding up of fractional units) for projects consisting of less than 8 acres; or
 - ii. At least two full units of additional affordable housing is proposed in excess of the minimally required 20% set-aside (which includes

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- rounding up of fractional units) for projects consisting of 8 acres or more.
 - iii. This density enhancement shall not be triggered by fractional units.
 - c. Ten units per acre for entirely rental projects (i.e. projects that are rental for both the market rate *and* affordable).
- E. Bulk regulations.
- (1) Minimum lot size: 40,000 square feet.
 - (2) Minimum lot width: 140 feet.
 - (3) Maximum building height:
 - a. Properties with frontage along the east side of Route 202: three stories and 44 feet above mean finished grade.
 - b. Properties with frontage along the west side of Route 202: three stories and 37.5 feet above mean finished grade.
 - (4) Minimum setbacks: 50 feet from any front lot line and 30 feet from any other lot line.
 - (5) Maximum total lot coverage: 45%.
- F. Affordable housing requirements.
- a. An affordable housing set-aside of 20% for all sales **and rental** projects. ~~and 15% for all rental projects is required.~~
- G. Supplemental standards for the AHO-2 Zone.
- (1) Section 225-147, Supplementary standards, for the B-2 Zone shall apply. Should conflict occur between §225-147 and this section, this section shall govern.
 - (2) Berming shall be required for development along the east side of Route 202 that does not include a commercial component. Berms must be:
 - a. A minimum of 5 feet in height measured from the internal development elevation and shall be planted with a mixture of trees and shrubs so as to create the maximum visual screen along the frontage.
 - (3) Sidewalks shall be provided on at least one side of all internal roadways.
 - (4) All internal lighting shall be pursuant to Harding's light standards, with the exceptions that LED bulbs are permitted, and light temperatures (Kelvin) shall range between 2700K and 3000K. Township standards are found at Ordinance Section 225-85 and Chapter 223 and require light fixtures used on individual units to be designed to direct the light down and shielded to prevent glare. Therefore, all internal street lighting shall be provided via bollard lights. If bollard lighting is proven not to meet minimum safety and emergency requirements and/or the illumination standards of this Chapter or the

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State, other lighting styles designed to shield against glare shall be permitted pending approval by the Planning Board at the time of site plan review.

- (5) The components of subsurface wastewater treatment and disposal systems as well as stormwater management improvements (and associated retaining walls) and utilities may be located within the setbacks.
- (6) Above-ground buildings associated with subsurface wastewater treatment and disposal systems:
 - a. Shall be located a minimum of 50 feet from all property lines.
 - b. Shall be designed to be architecturally compatible with the proposed development, including but not limited to exterior materials, colors, and lighting fixtures.
 - c. Shall not be taller than 25 feet in height.
 - d. For development on the east side of Route 202, such above-ground buildings may be located within the front yard setbacks of the Interstate 287 frontage.
 - e. Developments on either side of Route 202 may locate such buildings in side or rear yards. Such buildings shall never be located within the Route 202 setback requirements and shall not be placed between the front of a principal building and Route 202.
 - f. Landscaping shall be planted around the building to contribute to its aesthetics as well as to shield the building from the public right-of-way.
- (7) Decks and patios associated with residential development shall be a minimum of 25 feet from any lot line and are permitted to be located in front of the front façade of a principal building. All decks and patios shall be shielded from public rights-of-way via berming or landscaping.
- (8) All units shall provide suitable storage for bicycles as well as trash and recycling containers. Should indoor storage of such items prove impracticable due to a lack of garage, an exterior storage shed must be provided. Such sheds shall be designed to an appropriate size as reviewed and approved by the Planning Board at the time of site plan approval. Such sheds shall be in close proximity to the unit(s) they are serving and may be placed adjacent to a deck or patio or adjacent the side of the building. Such shed shall never be in front of the front door to a unit. Such shed shall be screened from public rights-of-way via berming or landscaping.
- (9) Emergency generators, air conditioning condensers, and heat pumps shall be planned for and shown on any site plan drawings associated with an application for site plan approval.
 - a. In multi-family or mixed-use development, roof-top placement is preferred to ground-mounted equipment and shall be screened from public view.

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- b. For generators, noise shall not exceed a manufacturer's noise level rating that does not exceed 70 dB(a) at 23 feet (seven meters)
 - c. Ground-mounted equipment:
 - i. May have a footprint (including the pad) not to exceed 20 square feet per unit.
 - ii. Shall not exceed four feet in height.
 - iii. Shall abide by the setbacks and standards associated with patios and decks found in subparagraph (7) above.
 - iv. Shall be appropriated screened/buffered by nondeciduous plantings (subject to seasonal planting timing limitations) and/or a fence so as to minimize visibility from all lot lines from which the setback is less than the minimum applicable to buildings and structures.
- (10) In the event of fee-simple townhouse and stacked townhouse development, the bulk standards found herein shall be applied to the entire tract.
- (11) One monument sign shall be permitted pursuant to the standards the AH Affordable Housing Zone, articulated in Section 225-120.E of the Municipal Code.
- (12) Parking standards shall be pursuant to Section 225-147 of the Municipal Code, with the exception that residential development shall provide parking at a rate of 1.8 spaces per unit.

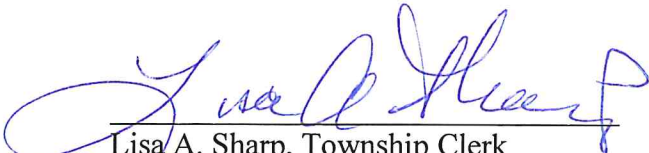
SECTION 2. This ordinance may be renumbered for the purposes of codification.

SECTION 3. This ordinance shall take effect upon Court Approval.


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ATTEST:

TOWNSHIP OF HARDING



Lisa A. Sharp, Township Clerk



Timothy D. Jones, Mayor

INTRODUCED:	October 15, 2025	ADVERTISED:	October 23, 2025
PUBLIC HEARING:	November 10, 2025	ADVERTISED:	November 13, 2025
ADOPTED:	November 10, 2025	ADVERTISED:	November 13, 2025

VOTE ON ADOPTION:

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN
Ms. Chipperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dr. Lacz	2nd	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Platt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Yates	1st	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Jones		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>