

**ORDINANCE AMENDING CHAPTER 28 – ZONING OF THE
CODE OF THE BOROUGH OF HIGHTSTOWN, COUNTY OF
MERCER TO MODIFY THE R- MF DISTRICT TO IMPLEMENT
INCLUSIONARY AFFORDABLE HOUSING ZONING**

WHEREAS, the Hightstown Borough Council desires to implement standards for the development of inclusionary affordable housing in the Zoning Ordinance in furtherance of the municipal obligation to provide the opportunity for affordable housing; and

WHEREAS, it has been determined by Hightstown Borough Council that the implementation of these modifications to the R-MF zoning district would effectuate the intent and purpose of the goals and objectives of the Housing Element and Fair Share Plan of the Master Plan of the Borough of Hightstown; and

WHEREAS, the Municipal Land Use Law requires that any amendments or revisions to Hightstown Borough's Zoning Ordinance shall be reviewed by the Planning Board to determine if said amendments or revisions thereto are substantially consistent with the Master Plan of the Borough of Hightstown; and

WHEREAS, the Planning Board of Hightstown adopted a Housing Element and Fair Share Plan, Element of the Master Plan on April 10, 2023, that addresses the municipality's affordable housing obligations in a manner which will promote the public health, safety, morals, and general welfare; and

WHEREAS, the Municipal Land Use Law at N.J.S.A. 40:55D-62a requires substantial consistency of the provisions regulating zoning and land use with the adopted Land Use Plan Element; and

WHEREAS, the Hightstown Borough Council formally refers this Ordinance to the Planning Board for examination, discussion, and recommendations accordance with N.J.S.A. 40:55D-26; and

WHEREAS, the adoption of this Ordinance was appropriately noticed pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-15 and in accordance with N.J.S.A.40:55D-62.1.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Hightstown that the Zoning Ordinance is hereby amended as follows:

Section 1. §28-2-2, Definitions, shall be revised to remove the following definitions:

APARTMENT HOUSE, GARDEN-TYPE shall mean a residential structure of not more than two and one- half (2 1/2) stories containing three (3) or more dwelling units. (See also "multiple dwelling.")

DWELLING, MULTIPLE shall mean one (1) of the following:

- a. APARTMENT HOUSE shall mean any building or portion thereof which is arranged or designed to be occupied by three (3) or more families or individuals living independently of each other and having separate kitchen and sanitation facilities. See definition of "apartment house, garden-type."
- b. LODGING HOUSE, ROOMING HOUSE OR BOARDINGHOUSE shall mean any house, building or portion thereof in which three (3) or more persons are furnished lodging or rooming accommodations for hire or otherwise.
- c. HOTEL shall mean a building having at least fifty (50) sleeping rooms, where separate cooking facilities are not provided and where rooms are rented primarily on a temporary or day-by-day basis.
- d. NURSING HOME shall mean a building having at least twenty (20) rooms for the accommodation of persons in need of constant medical care or supervision and providing common dining and recreational facilities.

Section 2. §28-2-2, Definitions, shall be amended to add or revise the following definitions:

BOARDING HOUSE shall mean the same as defined in N.J.S.A. 55:13B-3h, as it may be amended or superseded.

DWELLING, APARTMENT – See Multifamily dwelling.

DWELLING, MULTIFAMILY shall mean a building which contains more than two (2) dwellings, each of which is intended for occupancy by one (1) housekeeping unit.

DWELLING, TOWNHOUSE shall mean a dwelling a minimum of two stories in height that is designed and occupied exclusively as the residence of one housekeeping unit, with no other dwelling above or below it and attached by means of one or more common vertical fire walls to at least one other such dwelling all housed in the same structure.

FAMILY – See Housekeeping Unit.

HOTEL shall mean a building with a central lobby and internal access to sleeping rooms having at least fifty (50) such rooms, where separate cooking facilities are not provided and where rooms are rented primarily on a temporary or day-by-day basis.

HOUSEKEEPING UNIT shall mean one (1) or more persons living together in one (1) dwelling unit on a nonseasonal basis and sharing living, sleeping, cooking and sanitary facilities on a non-profit basis.

NURSING HOME shall mean the same as defined in N.J.S.A. 26:2H-29 and -32, as it may be amended or superseded.

ROOMING HOUSE shall mean the same as defined in N.J.S.A. 55:13B-3a, as it may be amended or superseded.

Section 3. §28-3-9, R-MF, Multi-Family District, shall be amended in its entirety as follows:

§ 28-3-9. R-MF Multifamily Residential District.

A. Purpose and Intent. The purpose and intent of the R-MF Multi-Family Residential District is to provide market rate and subsidized affordable housing in the Borough of Hightstown to aid in meeting its constitutional obligation to provide for very low, low and moderate income housing in accordance with the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). The R-MF district is further divided into sub-districts that apply to specific sites with inclusionary affordable housing in accordance with the objectives of the Housing Plan Element of the Master Plan and implementing resolutions, ordinances, and agreements constituting the Fair Share Plan. The R-MF district provides a compensatory benefit over the preceding zoning district's use and/or intensity standards sufficient to address the affordable housing components of inclusionary development.

B. Permitted Uses. In the R-MF Multifamily District, the following uses, and no others, shall be permitted:

(1) Principal Uses:

- (a) Townhouse dwellings.
- (b) Multifamily dwellings.
- (c) Municipal purpose.

(2) Accessory Uses:

- (a) Community center for the use of residents and their guests.
- (b) Common recreational facilities for the use and enjoyment of residents and their guests.
- (c) Maintenance building.
- (d) Management office if located within a community center or building with multifamily dwellings.
- (e) Home occupation in accordance with the requirements of §28-10-6 and in addition to the prohibited uses listed in subparagraph -c therein, no funeral home, private school or professional office shall be permitted as a home occupation on the premises.
- (f) Off-street surface parking; car sheds and detached garages for private residential use, only.
- (g) Fences, walls and street furniture.
- (h) Signs in accordance with §29.
- (i) Large satellite dish antenna when approved as part of an application for development for providing common service to the residents of a development in accordance with the standards of §28-10-18.

(j) Small satellite dish antennae in accordance with the standards of §28-10-18.

(k) Accessory uses on the same lot and customarily incidental to the principal use.

(3) Conditional Uses. The following uses shall be permitted when the criteria have been met for the site listed.

(a) Multifamily use with a sub-district designation of 18 (R-MF18) shall be permitted when the following criteria have been met:

[1] New multifamily dwellings shall be added to the site by additions to the existing building or by the demolition and construction of new buildings in lieu of the construction of additions.

[2] The design of the additions shall have at a minimum a base made of comparable materials to the exterior of the existing buildings but may differ in the field materials above the base, and shall have a similar roof pitch, and roof design as the existing buildings. Fenestration shall mimic the spacing and opening size, to the degree permissible by the Uniform Construction Code, of the existing window and doors architecture.

[3] At least twenty percent (20%) of all housing units shall be affordable to low, including very low, and moderate income households as those terms are defined in the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.). Such units may be established in existing multifamily units as such dwellings become vacant in a schedule as approved by the Borough's Administrative Agent for affordable housing.

(b) Uses permitted in §28-3-15, the DTG Downtown Gateway district, listed as - ~~A(1)(e), -A(1)d, -A(1)f, -A(1)f and -A(1)k~~ -A(1)(b), -A(1)(c), -A(1)(d), -A(1)(e), -A(1)(f), -A(1)(g), -A(1)(h), -A(1)(i), -A(1)(k) meeting the following criteria:

[1] Any such use shall front on ~~State Highway 33~~ Franklin Street or County Road 633.

[2] Any such use shall be located on the first floor only of a building.

(c) Uses permitted in §28-3-14, the Highway Commercial district, listed as A(1), A(2) and A(3)

[1] Any such use shall front on Mercer Street.

C. Bulk standards. The following area, yard, and coverage standards shall apply to uses within the R-MF district:

(1) Maximum gross density shall not exceed the following:

- (a) For R-MF zoning districts without any sub-district designation, the maximum gross density shall be twelve (12) dwelling units per acre.
- (b) For R-MF zoning districts with designated sub-district 14 (R-MF14), the maximum gross density shall not exceed fourteen (14) units per acre.
- (c) For R-MF zoning districts with designated sub-district 18 (R-MF18), the maximum gross density shall not exceed eighteen (18) units per acre.
- (2) Maximum building coverage.
- (a) Multi-family use - Twenty-five percent (25%) of total tract area.
- (b) Townhouse use - Twenty-five percent (25%) of the total tract area and seventy percent (70%) of lot area for individual townhouse parcels.
- (c) Combined multi-family and townhouse uses: Twenty-five percent (25%) of the total tract area and seventy percent (70%) of lot area for individual townhouse parcels.
- (3) Maximum impervious surface coverage - seventy percent (70%) of total tract area.
- (4) Maximum building height.
- (a) Townhouse – Two and a half stories and thirty-five (35) feet.
- (b) Multifamily – Two stories and thirty-five feet within fifty of a tract perimeter; three stories and forty-five (45) feet otherwise.
- (c) Community building – One story and twenty-eight (28) feet.
- (d) Maintenance building and other accessory structures – Eighteen (18) feet.
- (e) Building limitations and separation requirements for townhouses and multi-family uses shall be as indicated in the following table:

Requirement	Standard
Maximum Dwellings per Building (Townhouses)	8 dwellings
Maximum Dwellings per Building (Multifamily)	24 dwellings
Minimum Distance from Building front to Building front	60 feet
Minimum Distance from Building front to Building side	35 feet
Minimum Distance from Building front to Building rear	60 feet

Minimum Distance from Building side to Building rear	35 feet
Minimum Distance from Building rear to Building rear	50 feet
Minimum Distance from Building side to Building side	20 feet

(5) Fee simple townhouse and community building requirements, when placed on a fee simple lot, shall be as indicated in the following table:

Use	Townho use	Community Building
Minimum lot size	1,800 sf.	4,000 sf.
Minimum lot frontage	18 feet; 22 feet if internal garage	40 ft.
Minimum lot depth	100 ft.	100 ft.
Maximum building coverage	70%	60%
Maximum lot coverage	80%	75%
Principal Building Minimum Yard Depths and Height Limitations		
Front yard	20 ft.	20 ft.
Side yard	0 ft. common wall; 8 ft. end unit	20 ft.
Rear yard	20 ft.	30 ft.
Accessory Building Minimum Yard Depths and Height Limitations		
Front Yard	N.P.	N.P.
Side yard	N.P.	10 ft.
Rear yard	5 ft.	10 ft.
Tool shed side and rear yard	5 ft.	5 ft.

N.P. = Not a permitted location

(6) Building setbacks from streets and driveways. Minimum building setbacks shall

be as in the following table:

Requirement	Standard
Where lot fronts on Rt. 33	As required in the DTG district
From major collector drive or street (public r.o.w. or private r.o.w. easement); no direct access to dwelling	20 feet ⁽¹⁾
Front façade from a residential access drive or street (public r.o.w. or private r.o.w. easement); direct access to dwelling	22 feet
Front façade from a residential access drive or street (public r.o.w. or private r.o.w. easement); no direct access to dwelling.	10 feet
Rear façade from a residential access drive or street (public r.o.w. or private r.o.w. easement)	20 feet
Side facades from a residential access drive or street (public r.o.w. or private r.o.w. easement)	8 feet

(1), or 22 feet from the edge of cartway, whichever is greater.

(7) Parking requirements. Residential uses shall comply with the parking requirements of the Residential Site Improvement Standards at N.J.A.C. 5:21-4.14. Non-residential uses shall comply with §28-10-11.J.

(8) Minimum landscaped buffer adjacent to existing public streets and property lines - Ten (10) feet.

D. Required Affordable Housing. In any R-MF district, at least twenty percent (20%) of the total number of dwellings shall be affordable to very low, low and moderate income households for for-sale development and at least fifteen percent (15%) for rental development. Affordable units shall be restricted, regulated and administered consistent with the Borough's affordable housing regulations, the Uniform Housing Affordability Controls rules (N.J.A.C. 5:80-26.1 et seq.) and the New Jersey Fair Housing Act (N.J.S.A. 52:27D- 301 et seq.), including the Fair Housing Act's definition of very low-income households and all other provisions of Article XII, the Affordable Housing of this ordinance.

E. Design Standards.

1. Multi-family buildings. The following standards shall be used in the design of multi-family buildings:

a. A minimum of one hundred twenty (120) cubic feet of storage shall be provided for each dwelling, exclusive of kitchen cabinetry.

- b. Access to dwellings shall be designed to provide a sense of safety and security for the residents, particularly in internal stairwells.
 - c. All stairs shall be enclosed in the building.
 - d. The exterior of the building shall be designed to visually break up any facade in excess of one hundred (100) lineal feet through the use of, but not limited to, changes in materials, fenestration, porticos and porches.
 - e. The design should distinguish between the base, middle, and top of the building.
 - f. Where an outdoor living space is proposed, adequate visual screening from all other neighboring dwellings, outdoor living spaces, parking areas and roadways shall be provided. Screening may be accomplished with plant materials, masonry structures or wood fencing a minimum of five (5) feet in height. Architectural elements, such as masonry walls and fences, shall be similar in both style and materials with the dwelling.
 - g. All utility meters or boxes, air compressors, heat pumps, or other exterior equipment shall be located at the side or rear of buildings and shall be screened by architectural elements or landscape plantings.
2. Townhouses. The following standards shall be used in the design of townhouse and stacked townhouse buildings:
- a. A minimum of one hundred fifty (150) cubic feet of storage shall be provided for each dwelling, exclusive of kitchen cabinetry.
 - b. The exterior of the building shall be designed to visually break up any facade in excess of one hundred (100) lineal feet through the use of, but not limited to, changes in materials, fenestration, porticos and porches.
 - c. Chimneys, skylights, dormers, and other roof structures are encouraged, but not required, to vary the elevation and provide additional light into the upper story or half story of dwellings.
 - d. Where an outdoor living space is included for a unit, it shall be provided with adequate visual screening from all other neighboring dwellings, outdoor living spaces, parking areas and roadways. Screening may be accomplished with plant materials, masonry structures or wood fencing a minimum of five (5) feet in height. Architectural elements, such as masonry walls and fences, shall be compatible in both style and materials with the dwelling unit.

Section 4. §28-3-1, Districts Established, shall be revised to add under the R- MF Zoning District the R-MF14 and R-MF18 subdistricts.

Section 5. §28-3-1, Zoning Map, shall be amended to rescind the existing zoning districts and applying the following zoning districts and subdistricts to the tax assessment blocks and lots, and associated half width of streets, as appropriate, ~~except for Block 11, Lots 17.01, 17.02 and 19.01; and, Block 61.01, Lot 25 and part of Lots 44 and 45, which shall be applied as an overlay~~

~~to the underlying zoning districts:~~

R-MF Block 11; Lots 17.01, 17.02 and 19.01 (Broad and Monmouth)
Block 40, Lot 20 (216-222 Academy St.)
Block 61.01; part Lots 44 and 45 (Rt. 33, as depicted on the Affordable Housing Sites Map)

R-MF14 Block 24, Lot 9 (278 Monmouth St.)
Block 24, Lots 5, 6 and 24 (115 Manlove Ave., and 315 Franklin St.)
Block 24, Lot 7 (265 Franklin St.)
Block 24, Lot 15 (Franklin St.)
Block 61.01, Lot 25 (319 Mercer St.)

R-MF18 Block 55, Lot 74 (25 Westerlea Ave.)

Section 6. Continuation. In all other respects, the Zoning Ordinance of the Borough of Hightstown shall remain unchanged.

Section 7. 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 this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 8. Interpretation. If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Borough of Hightstown, then the restriction which imposes the greater limitation shall be enforced.

Section 9. 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 10. Enactment. This Ordinance shall take effect upon the filing thereof with the Mercer County Planning Board after final passage, adoption, and publication by the Borough Clerk of the Borough of Hightstown in the manner prescribed by law.

Introduction: May 5, 2025

Adoption: **Public Hearing Scheduled for May 19, 2025**

ATTEST:

MARGARET RIGGIO
MUNICIPAL CLERK

SUSAN BLUTH
MAYOR

A diagram of a circle with a horizontal radius. The radius is a thick black line segment extending from the center of the circle to its left edge. This segment is labeled with the letter 'z' at its left end.

GRAPHIC SCALE
(IN FEET)
1 inch = 400 ft.

