

ORDINANCE #2026-06

AN ORDINANCE OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY, AMENDING CHAPTER 185, ZONING ORDINANCE OF THE TOWNSHIP OF HARDYSTON, TO ESTABLISH A NEW “AH-2 AFFORDABLE HOUSING OVERLAY-DISTRICT” FOR THE PROPERTY IDENTIFIED AS BLOCK 67 LOT 16.03 AND BLOCK 67.05 LOT 1 IN THE TOWNSHIP.

WHEREAS, the Township of Hardyston Joint Land Use Board has adopted, and the Township Council of the Township of Hardyston has endorsed, an Amended Housing Element & Fair Share Plan addressing the Township’s Fourth Round affordable housing obligation; and

WHEREAS, the Amended Housing Element & Fair Share Plan recommends the establishment of an affordable housing overlay zone on the parcels located at Block 67, Lot 16.03 and Block 67.05, Lot 1 in the Township, as identified on Township’s current tax records on file in the Office of the Township Tax Assessor, to be otherwise known as the “AH-2 Affordable Housing Overlay-District”; and

WHEREAS, consistent with the provisions of the Municipal Land Use Law, including N.J.S.A. 40:55D-26 and 40:55D-64, prior to the hearing on the adoption of the amendment to the Zoning Ordinance, the Township Council of the Township of Hardyston has referred to the Hardyston Joint Land Use Board the proposed amendments to the Zoning Ordinance for review, comment and recommendation.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Hardyston, County of Sussex, State of New Jersey, as follows:

SECTION 1. Chapter 185, Zoning is hereby amended and supplemented to establish the “AH-2 Affordable Housing Overlay District” at Article XXXI, and to set forth the following:

Article XXXI AH-2 Affordable Housing Overlay-District

§185-145. Purpose and Applicability

- A. Purpose. The purpose of the AH-2 Affordable Housing Overlay District is to provide a realistic opportunity for the development of affordable housing for households of low-and moderate-income as required by South Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983)(“Mount Laurel II”) and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq., (“FHA”). These regulations are intended to implement the recommendations set forth in the Township of Hardyston Planning Board’s Master Plan Reexamination Report adopted on July 25, 2019, and the Township’s Housing Element and Fair Share Plan for the purpose of addressing a portion of the Township’s Fourth Round prospective need obligation. Specifically, the AH-2 Affordable Housing Overlay-Zone is established as an incentive for the development of affordable housing by allowing for the development of new multi-family inclusionary dwelling units and which will also address a portion of the Township’s fourth round affordable housing obligation. The AH-2 Affordable Housing Overlay-District is designed to enable the property within the Overlay District to be developed in the manner set forth herein as an alternative to the underlying B-1 zoning district and development standards that are, and shall remain

in force, except for the property located at Block 67, Lot 16.03 and Block 67.05, Lot 1. The multi-family inclusionary dwelling units may be mixed with the underlying zone district development standards. The dwelling units permitted in the AH-2 Affordable Housing Overlay-District shall comply with the standards set forth herein and include a mandatory affordable housing set-aside as provided in this subsection.

- B. Applicability. The provisions set forth herein pertaining to the AH-2 Affordable Housing Overlay-District shall apply exclusively and solely to the properties designated and known as Block 67, Lot 16.03 and Block 67.05, Lot 1 on the Township's current official Tax Maps of record on file in the office of the Township of Hardyston Tax Assessor, which is otherwise known as "Indian Field Commercial".

§ 185-146. Use regulations.

- A. Principal uses. The following principal uses shall be permitted in the AH-2 District:
- (1) Mixed-use development consisting of a combination of any B-1 zone district permitted principal, accessory or conditional use and affordable inclusionary multi-family dwelling units.
 - (2) Affordable inclusionary multi-family dwelling units may be developed in residential buildings or above ground floor non-residential space (mixed use building), or any combination thereof.
 - (3) Affordable inclusionary multi-family dwelling and mixed use buildings: See § 185-143 (Schedule of Bulk Requirements below).
- B. Accessory uses. The following accessory uses for affordable inclusionary multi-family dwelling units shall be permitted in the AH-2 District:
- (1) Required off-street parking spaces.
 - (2) Private garages and private patios and decks, as defined in this chapter.
 - (3) Signs as permitted by Article XIX.
 - (4) Stormwater management structures.
 - (5) Rental/management office.
 - (6) Maintenance/storage buildings.
 - (7) Any other use which the applicable Board determines is customarily incidental to the principal permitted use on the premises.

§ 185-147. Bulk requirements and other conditions.

- A. Maximum number of residential units per acre in the district shall be 6.
- B. Minimum floor area ratio of non-residential development applied to residential development shall 0.3
- C. Accessory structures: all accessory structures shall meet the bulk and other requirements of the underlying zone except as may otherwise be specifically

provided in § 185-148.

- D. All required residential off-street parking shall conform to the Residential Site Improvement Standards (RSIS).
- E. Recreation amenities and open space shall be constructed throughout the entire tract consistent with the amenities which have already been constructed and shall include both passive and active amenities.
- F. Mandatory affordable housing provisions.
 - (1) Within the AH-2 Affordable Housing Overlay-District, at least 20% of the total residential dwelling units constructed, rounded up to the next whole dwelling unit, shall be restricted for “very-low income housing,” “low-income housing” and “moderate-income housing,” as these terms are defined in the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq., (“FHA”). All affordable units shall be constructed on site and in accordance with the provisions of the FHA, the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.1 et seq. (UHAC), and the Township’s Affordable Housing regulations set forth at §185-90.1.
 - (2) At least fifty (50) percent of the total number of all affordable dwelling units shall be restricted to person(s) qualifying for low-income housing, of which no less than 13% shall be restricted for persons qualifying for “very-low income housing” as this term is defined in the FHA. The remaining balance of the total number of affordable dwelling units may be restricted for persons qualifying for moderate-income housing. In no event shall the total number of moderate-income housing units exceed fifty (50) percent of the total number of affordable dwelling units.
 - (3) All affordable dwelling units shall be deed restricted for occupancy in accordance with the terms and conditions of the Township’s affordable housing deed restriction. The purchaser of any affordable dwelling unit offered for sale or resale shall also be required to execute an individual Township approved affordable housing unit deed restriction along with a Township approved recapture mortgage lien and recapture note.
 - (4) The length of the affordability control period set forth in any affordable housing deed restriction for each affordable dwelling unit sold or offered for sale or resale shall be for a minimum period of time of at least forty (40) years from the later of the date the first affordable household occupies the unit or the date the first certificate of occupancy is issued for the respective affordable unit. Each deed restriction shall include a reservation of the Township’s right and option to extend the initial affordability control period for an additional period of time in accordance with the provisions of the FHA, the UHAC and the Township’s Affordable Housing regulations set forth at §185-90.1.
 - (5) The length of the affordability control period set forth in any affordable housing deed restriction for each affordable dwelling unit to be rented or offered for rent shall be for a minimum period of time of at least forty (40) years from the later

of the date the first affordable household occupies the respective unit or the date the first certificate of occupancy is issued for the respective affordable unit. The affordable housing deed restriction shall include a reservation of the Township's right and option to extend the initial affordability control period for an additional period of time in accordance with the provisions of the FHA, the UHAC and the Township's Affordable Housing regulations set forth at §185-90.1.

- (6) All affordable dwelling units shall be constructed, affirmatively marketed, sold or rented, and occupied in accordance with the provisions of the FHA, the UHAC and the Township's Affordable Housing regulations set forth at §185-90.1.
- (7) **Affordability Averages.** The range of affordability, minimum and maximum pricing for the sale and/or rental of affordable dwelling units and affordability average requirements shall meet all requirements of the FHA, the UHAC and the Township's Affordable Housing regulations set forth at §185-90.1.
- (8) **Affordable Dwelling Bedroom Distribution; Construction Phasing.** The bedroom distribution of all affordable dwelling units, and construction phasing of the affordable dwelling units with the market rate dwelling units to be developed on the tract shall meet the requirements of the FHA and the UHAC.
- (9) Unless otherwise permitted by the Township, the Township's Municipal Housing Liaison and Affordable Housing Administrative Agent shall be responsible to affirmatively market, administer and certify each household for any for sale or rental affordable unit, with all administrative costs to be paid by the developer/owner of the property.
- (10) The developer/owner shall provide the Joint Land Use Board with appropriate documentation at the time of application for preliminary site plan approval to demonstrate compliance with the requirements for the low-and moderate-income units as set forth in this subsection.

185-148. Multi-family dwelling and mixed use buildings in the AH-2 Affordable Housing Overlay-District

Schedule of Bulk Requirements

Development Standard	Apartment Building and Garden Apartments	Attached Single-Family	Multi-Level Housing
Maximum number of dwelling units/ structures	12	8	16
Maximum length of structure	200 feet	200 feet	175 feet
Maximum building coverage	20%	20%	30%
Maximum number of single units served by single common entrance	2	1	1
Minimum number of entrance/ exits per unit	2	1	1
Maximum height	50 feet for apartment buildings; 35 feet for garden apartment	35 feet	35 feet
Minimum distance between groups of structures:			
End to end	35 feet	35 feet	35 feet
Rear to rear	60 feet	60 feet	60 feet
Front to back	75 feet	75 feet	75 feet
Front to front	75 feet	75 feet	75 feet
Front to side (except that buildings may join at corners)	50 feet	50 feet	50 feet
Minimum distance to road	65 feet	50 feet	50 feet

Minimum distance internal road	45 feet	25 feet	25 feet
Minimum distance to side property line	75 feet	25 feet	25 feet
Minimum distance to rear property line	75 feet	25 feet	25 feet
Required off-set	Minimum of 4 feet every 50 feet	N/A	Minimum of 4 feet every 50 feet
Patios and decks	Not allowed outside the permitted building envelope	Permitted in the rear yard but not within 15 feet of the rear property line	Not allowed outside the permitted building envelope

SECTION 2. Zoning Map. Pursuant to N.J.S.A. 40A:12A-7(c), the Township’s Zoning Map is hereby amended to identify AH-2 Affordable Housing Overlay-District and the properties described above.

SECTION 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Hardyston, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Code of the Township of Hardyston are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 5. The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Sussex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

SECTION 6. After introduction, the Township Clerk is hereby directed to submit a copy of the within Ordinance to the Joint Land Use Board of the Township of Hardyston for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Joint Land Use Board is directed to make and transmit to the Township Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 9. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with (a) the Sussex County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Township Council of the Township of Hardyston on February 25, 2026 and will be considered for final passage after public hearing at a regular meeting of the Township Council of the Township of Hardyston to be held on March 11, 2026 at 6:00 pm in the Municipal Building, 149 Wheatsworth Road, Hardyston, New Jersey 07419.

Jane Bakalarczyk, RMC, Municipal Clerk