

ORDINANCE O-25-44

AN ORDINANCE AMENDING ARTICLE X OF THE TOWNSHIP CODE ENTITLED "ZONES" CREATING A SECTION 188-84.7 ENTITLED "MODERATE- AND LOW-INCOME HOUSING MIXED USE OVERLAY ZONE 17" KNOWN AS ML-17 ZONE

WHEREAS, the Township of Howell, County of Monmouth, State of New Jersey, (hereinafter, "Township" or "Howell") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and in fact obtained a Final Round Three Judgment of Compliance and Repose on from the Court in the matter captioned In the Matter of the Application of the Township of Howell, County of Monmouth, Superior Court of New Jersey, Law Division, Docket No. MON-L-2525-16 thereby immunizing the Township from builder's remedy litigation until July 1, 2025 (the "Third Round Litigation"); and

WHEREAS, all Third Round Litigation projects are currently under various stages of development from pre-construction to completion and occupancy;

WHEREAS, on March 20, 2024, the Governor signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or the "Act"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to provide an estimate of the Present Need, also referred to as the rehabilitation obligation, and the Round 4 Prospective Need (new construction) affordable housing obligation of all municipalities by October 20, 2024 for the Fourth Round period, July 1, 2025 through July 1, 2035.

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") estimating the Present Need and the Round 4 Prospective Need obligation for all municipalities based upon its interpretation of the standards in the Act, including Howell Township and the DCA Report calculated Howell's Round 4 (2025-2035) Present Need (Rehabilitation) Obligation as 63 units and its Round 4 Prospective Need Obligation as 338 affordable housing units; and

WHEREAS, the Amended FHA provides that, irrespective of the DCA's calculations, municipalities have the ability to either accept, or provide alternate calculations for, the DCA's "present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025", a deadline which was later extended to February 3, 2025 by the Administrative Office of the Courts ("AOC") via a directive issued on December 19, 2024; and

WHEREAS, the Township Council adopted Resolution 25-69 on January 21, 2025 rejecting the DCA's calculation of its prospective need obligation calculation of 338 affordable housing units premised upon the Township Planner's analysis that the areas the DCA identified as developable are overinclusive thereby reducing the Land Capacity Allocation Factor from 2.45 % to 1.99 % resulting in the reduction of the prospective need (New Construction) obligation from 338 to 276 affordable housing units; and

WHEREAS, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, requiring a municipality seeking a certification of compliance with the Act to file an action in the form of a declaratory judgment complaint within 48 hours after adoption of

the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and'

WHEREAS, the Township filed a Declaratory Judgment Complaint on January 23, 2025 seeking Program and Court approval of its prospective need obligation at 276 affordable housing units and the Township is required by the Act to adopt a Housing Element and Fair Share Plan setting forth its strategy to meet its affordable housing obligation by June 30, 2025;

WHEREAS, the Township approved a Mediation Agreement before the Affordable Housing Dispute Resolution Program, establishing the Township's Fourth Round fair share obligation as follows: Present Need-63 units and Prospective Need-304 units which was subsequently confirmed through a Court Order entered by the Hon Linda Grasso, Jones, J.S.C. dated April 14, 2025, accepting and adopting the Program Member's Report and Recommendation for approval establishing the Township's Fourth Round obligation as set forth herein;

WHEREAS, the Court Order authorized the Township to proceed to the compliance phase with the preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round by no later than June 30, 2025; and

WHEREAS, the Township Planning Board approved its Housing Element and Fair Share Plan for the Fourth Round by Resolution dated June 19, 2025 setting forth the Township's affordable housing plan to address and meet its Fourth Round Present and Prospective Need obligation; and the Township Council adopted a Resolution Endorsing the Housing Element and Fair Share Plan on June 24, 2025; and

WHEREAS, the Township received objections to its Fourth Round Housing Element and Fair Share Plan and has decided to include an additional inclusionary project in its Fourth Round Plan as part of the Program mediation; and

WHEREAS, the Township received a proposal from Capital Holdings, LLC (the "Developer") to construct a mixed use inclusionary project comprised of 166 market rate units and 42 affordable housing units (the "Project") on the property identified as Block 130, Lots 30, 31.01, 38, 39 & 40 (formally known as Lots 31, 36, & 37) on the tax map of the Township of Howell located on US Highway 9 in the Township (the "Property"); and

WHEREAS, the Township is requiring the Developer to enter into a Developer's Agreement with the Township to ensure the Developer will construct the Project in conformance with the concept plan and this ordinance and this ordinance shall not become effective unless and until the Township enter into a Developer's Agreement with the Township so that the Township may rely upon the Project to meet a portion of its Fourth-Round affordable housing obligation; and

WHEREAS, the Township Council believes it is in the best interest of the Township's residents to continue to meet its constitutional obligation to provide for its fair share of affordable housing in the least impactful way as possible to its current residents and in order to remain immune from builder's remedy litigation through the adoption of an ordinance rezoning the

Property to allow for the Project to be developed in accordance with the zoning standards set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Council of the Township of Howell, County of Monmouth, and State of New Jersey that Chapter 188 "Land Use", Article X of the Township Code entitled "Zones" is hereby amended to create a Section 188-84.7 entitled "Moderate and Low- Income Housing Mixed Use Overlay Zone 17 (ML-17)" as follows:

§ 188-84.7. Moderate- and Low- Income Housing Overlay Zone 17 (ML-17)

A. Purpose and Intent:

- (1) The purpose of this overlay zone is to provide market and moderate- and low-income housing in order to meet Howell Township's constitutionally mandated obligation to provide affordable housing.
- (2) The Moderate- and Low-Income Housing Overlay Zone 16 (ML-16) District is intended to assist the Township in complying with its affordable housing obligation. The following properties shall be included within the ML-17 District: Block 130, Lots 30, 31.01, 38, 39 & 40 (formally known as Lots 31, 36, & 37) (the "Property").
- (3) The zoning standards authorized by this Ordinance shall constitute an overlay zone and the underlying zone for the Property shall remain in effect.

B. ML-17 Zoning Standards

- (1) The Property is a tract designated as Block 130, Lots 30, 31.01, 38, 39 & 40 as per the Howell Township Tax Map. The Zoning Map of the Township of Howell, as amended, is hereby further amended to provide that the Property is designated as the Moderate- and Low- Income Housing Mixed Use Overlay Zone 17 (ML-17).
- (2) The requirements of the ML-17 Mixed Use Overlay Zone including bulk requirements, are hereby specifically set forth as follows. The following overlay zone shall provide an alternative development opportunity to allow for flexibility from the underlying zoning requirements. The modifications are as follows:

C. Permitted uses

- (1) Permitted principal uses:
 - (a) Multi-family dwellings as defined in §188-4 under "DWELLING, MULTIPLE"
- (2) Conditional uses: none
- (3) Permitted accessory uses:
 - (a) Off-street parking, subject to the Residential Site Improvement Standards (RSIS) New Jersey Administrative Codes, Title 5, Chapter 21.
 - (b) Active and passive recreational, and other such facilities for the exclusive use or service of the development and their guests,

including but not limited to: fitness centers, playgrounds, outdoor courtyards, clubrooms or clubhouses, picnic grounds, dog parks.

- (c) Utilities and utility structures including but not limited to; pump stations, pump house, water tank, treatment facilities, stormwater basins, transformers, meters, etc. necessary for the proper distribution and monitoring of these services.

- [1] All other utilities appurtenant to subject development.

- [2] Any other uses that are customarily incidental and subordinate to a principal use and/or principal building.

- (d) Permitted accessory structures

- [1] Gazebo

- [2] Trellis

- [3] Decks

- [4] Patios

- [5] Fences and walls subject to requirements found within §188-12., §154-15.5., and §134-7, with the exceptions listed below in §188-84.6.E

- [6] Signs subject to requirements found within Chapter 256 of the Townships General Legislation Code, as well as requirements listed below in §188-84.6.D

- [7] Dog-parks

- [8] Swimming Pools

- [9] Pool Cabana

- [10] Structures relating to utilities

- [11] Temporary sales trailer and construction trailers

- [12] Mail kiosk/cluster box unit

- [13] Standalone mail structures / buildings

- [14] Trash enclosure associated with proposed communal areas

- [15] Other customary structures which are incidental and ancillary to a principal use and/or principal building

D. Residential dwelling requirements

- (1) Maximum number of Total Units: 208 housing units inclusive of affordable units

- (2) Affordable housing units set aside shall be 20% of the total number of approved units, with all units for low- and moderate-income housing in accordance with the Uniform Housing Affordability Controls (UHAC)

E. Site Design Requirements

- (1) Area, Yard, Bulk Requirements

- (a) Minimum lot area: 5 AC

- (b) Minimum lot frontage: 400 FT

- (c) Minimum lot width: 400 FT

- (d) Minimum lot depth: 700 FT

- (e) Minimum front yard setback: 125 FT

- (f) Minimum side yard setback: 95 FT
 - (g) Minimum rear yard setback: 225 FT
 - (h) Maximum permitted height (feet): 55 FT
 - (i) Maximum impervious coverage: 65%
 - (j) Maximum building coverage: 20%
- (2) Buffer and screening requirements
- (a) Buffers and screening shall be designed in accordance with §188-63 unless where expressly exempt within §188-84.6.E below.
- (3) Parking requirements
- (a) Parking requirements shall be governed by the New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21.
 - [1] Minimum parking requirements shall meet the RSIS requirements for 1, 2, or 3-bedroom “garden apartment.”
 - (b) ADA Parking spaces shall meet American Disability Association parking requirements including but not limited to design, accessibility, dimensions, striping, and signage, and shall comply with requirements found within chapter 216 of the Howell Township General Legislation
 - (c) Electric vehicle parking spaces shall be provided in accordance with N.J.S.A §40:55D-66.20. Electric vehicle or make-ready spaces shall count as at least two parking spaces for the purpose of complying with a minimum space requirement (reduction of no more than 10 percent of total required parking).
- (4) Signage
- (a) Signage proposed shall comply with regulations found within §256-5
 - (b) Special Sign Definitions: The following definitions are in addition to the definitions provided under §188-4 and §256-1
 - [1] CANOPY: A structure other than an awning made of fabric, metal, or other material that is supported by columns or posts affixed to the ground and may also be connected to a building.
 - [2] CANOPY SIGN: A sign attached to a building mounted fabric canopy.
 - [3] CHANNEL LETTER SIGN: A sign consisting of fabricated or formed individual three-dimensional letters, individually applied to a wall or canopy which may accommodate a light source.
 - (c) Canopy signs shall be permitted based on the following regulations:
 - [1] Canopy signs shall be affixed to the canopy itself and no other portions of the building
 - [2] Channel lettering may not exceed 15 inches in height

- [3] Channel lettering may not exceed 6 inches in depth
- [4] Canopy sign width shall not exceed the width of the canopy in which it is affixed.
- [5] Canopy signs shall be architecturally compatible with the proposed building design.

F. Additional requirements and exceptions from other requirements

- (1) All stormwater management structures, utility structures, as well as parking of vehicles shall be exempt from the standards found within §188-63.D. regarding buffers and screening.
- (2) The following structures shall be permitted in the front yard area:
 - (a) Stormwater management facilities
 - (b) Other Stormwater structures such as, but not limited to, headwalls, outlet control structures, bioretention basins, etc.
 - (c) Hot Boxes for domestic water service
- (3) The four buffer component options within § 188-63.E shall include this additional fifth option:
 - (a) Existing undisturbed trees and vegetation in the wetlands and wetlands buffer area
- (4) The provisions of Section §188-212 et seq. (Stormwater Control) shall be applicable within the ML-16 Zone. However in the event that the provisions of Section §188-212 conflict with or impose requirements other than those set forth within the provisions of the Residential Site Improvement Standards, NJAC 5:21 (RSIS), the RSIS shall control.
- (5) The number of trees and shrubs in the parking area shall be exempt from the standards found within §188-33.
- (6) Exemption from Street Tree Ordinance Section §188-122. Street trees will be provided every thirty (30) feet along the roadway where the site can physically accommodate such plantings. Trees are not required at this spacing where other site features restrict available space, such as utilities, sidewalks, signage, and driveways.
- (7) All fences and walls proposed shall be exempt from the standards found within §188-12A, regarding 50% open space for light and air requirement for fences and retaining walls.
- (8) All retaining walls shall comply with requirements found within §134-7., § 188-12., and §154-15.5. with the exception from the following:
 - (a) §134-7.B(2) No stormwater shall spill over the wall. A lower swale area may be constructed behind the wall to collect water and redirect it to the elevation that existed prior to the wall's construction. Inlets or stormwater pipes may be utilized in lieu of swales behind the walls to collect runoff.
 - (b) §134-7.C(3) Walls shall be at least 10 feet from any swale area.
- (9) With respect to §188-23 topsoil shall be stockpiled and repurposed throughout the site to the maximum extent possible.

- (10) Public transportation shelters and/or bus stops shall be exempt from zoning review processes. The installation of such shelters or stops shall be contingent upon the requirements of the public transportation agency in relation to the development.
- (11) The subject development shall be exempt from the provisions of §188-22 (Lighting). In lieu thereof, all site lighting shall conform to the Illuminating Engineering Society (IES) recommended standards for any development, ensuring adequate illumination, safety, and glare control.
- (12) The subject development shall be exempt from the provisions of §188-33 (Landscaping of Parking Areas). In lieu of the standard requirement for one (1) tree and one (1) shrub for every ten (10) parking spaces, required plantings may be located along the perimeter of parking areas or within other suitable open space areas. Plantings shall not be required within parking islands where spatial, grading, or utility constraints limit feasibility.

G. Waiver of cost generation measures

- (1) Preparation and submission of a Woodland Management Plan §188-187-202.
- (2) Tree replacement requirements under §188-195.C (Township Tree Fund) shall be exempt. In lieu of payment to the Township Tree Fund, the Applicant shall provide replacement plantings to the maximum extent practicable within available open space areas.

SECTION 2. REPEALER

The remainder of all other sections and subsections of the aforementioned ordinances not specifically amended by this Ordinance shall remain in full force and effect.

SECTION 3. INCONSISTENT ORDINANCES

All other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency, but only to the extent of such inconsistency.

SECTION 4. SEVERABILITY

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect upon its passage and publication according to law, subject to, and contingent upon, the approval and execution of a Developer's Agreement between the Township and the Developer, its successor and/or assigns.


NOTICE

The Ordinance published herewith was introduced and passed on first reading by the Township Council of the Township of Howell on **October 21, 2025** and will be further considered for final passage and adoption at the Township Municipal Building on 4567 Route 9 North, Howell, New Jersey on **November 25, 2025 at 7:00 p.m.** or as soon thereafter as the matter can be reached on the Agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior thereto, and up to, and including, the date of such meeting, copies of said Ordinance will be available at the Clerk's Office in the Township of Howell Municipal Building to the members of the general public who shall request same.

Introduction:

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilman Nadel</i>			X			
<i>Councilwoman O'Donnell</i>		X	X			
<i>Councilman Wrubel</i>			X			
<i>Deputy Mayor Fischer</i>	X		X			
<i>Mayor Leggio</i>			X			

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held October 21, 2025. WITNESS my hand this 22nd day of October 2025.



DIANE FESTINO, RMC
Municipal Clerk
Township of Howell

This is to certify that the foregoing Ordinance was adopted by the Township Council at a regular meeting of the Township of Howell held on December 16, 2025.

Adoption:

COUNCIL	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilman Nadel</i>	X		X			
<i>Councilwoman O'Donnell</i>						X
<i>Councilman Wrubel</i>			X			
<i>Deputy Mayor Fischer</i>		X	X			
<i>Mayor Leggio</i>			X			

I, Diane Festino, Municipal Clerk of the Township of Howell, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Mayor and Township Council, at its Meeting held December 16, 2025. WITNESS my hand this 17th day of December 2025.

DIANE FESTINO, RMC
Municipal Clerk
Township of Howell

Explanatory Statement: This Ordinance Amends Article X of the Township Code Entitled "Zones" Creating a Section 188-84.7 Entitled "Moderate- and Low-Income Housing Mixed Use Overlay Zone 17" known as ML-17 Zone