

AN ORDINANCE AMENDING SECTION §150, THE ZONING ORDINANCE OF THE CODE OF THE TOWNSHIP OF VERONA, BY ESTABLISHING THE A NEW SECTION §150-17.14A, CREATING A TOWN CENTER MIXED USE ZONING DISTRICT PERMITTING RESIDENTIAL USES WITH AN AFFORDABLE HOUSING ELEMENT AND ALSO AMENDING THE ZONING MAP OF THE TOWNSHIP OF VERONA.

WHEREAS #1, the 2009 Master Plan of the Township of Verona, dated May 18, 2009, includes a Housing Element and Fair Share Plan (“FSP”) to address affordable housing protocols effective as at that date and as promulgated by the State of New Jersey Council on Affordable Housing (“COAH”) in their rules and regulations; and

WHEREAS #2, the 2009 FSP indicates that “the planning board of the Township of Verona is committed to meet its constitutional obligation to provide affordable housing”; and

WHEREAS #3, on July 15, 2015, the Township of Verona filed a Complaint for Declaratory Judgment seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (“FHA”) in accordance with Mount Laurel\_IV with respect to the Township of Verona’s affordable housing obligation to permit the construction of affordable homes for lower-income households, this matter is commonly referred to as the affordable housing “DJ” action; and

WHEREAS #4, the Court on March 10, 2015, ruled that the state agency known as the Council on Affordable Housing (“COAH”) was effectively dysfunctional, and returned jurisdiction of affordable housing issues back to the trial courts where it had been prior to the creation of COAH in 1986. The Fair Share Housing Center (“FSHC”), having been a party in both the predecessor 2010 and 2013 statewide FHA and affordable housing cases, responded by filing a motion in aid of litigants’ rights with the New Jersey Supreme Court. The Court recognized the interests represented by the FSHC and thus granted Intervenor status to the FSHC; and

WHEREAS #5, the 2015 Court decision created a process for municipalities, like Verona, that participated in the Fair Housing Act/COAH process, to file a declaratory judgment (“DJ”) seeking to have the Court declare the Verona FSP constitutionally compliant and receive immunity from builders remedy lawsuits.

This allowed time for municipalities to prepare a new or revised FSP to ensure their Plan continues to affirmatively address their local housing needs as may be adjusted by new affordable housing-need numbers promulgated by the Courts and as may be agreed to by the Township and FSHC; and

WHEREAS #6, after a series of legal, land use and financial actions the Township and FSHC have come to an agreement (“Agreement”) which will satisfy the edicts of the Court and the FHA to provide affordable housing within the Township of Verona; and

WHEREAS #7, included in the Agreement is a provision to provide for the rezoning (or alternatively an overlay zone) of an area of the Township along Bloomfield Avenue; and

WHEREAS #8, it has been determined that a rezoning of an area that is currently in the Town Center zone situated along Bloomfield Avenue would be the most appropriate area for such rezoning, specifically between Montrose Avenue and South Prospect Street, to permit residences as a principle use on the second and third stories of the properties fronting Bloomfield Avenue and to further permit residences as a principle use on the ground floor (or first floor) as well as the second and third stories of the properties fronting on the side streets of Montrose Avenue and Prospect Street so as to continue to have businesses situated along the main retail corridor of Verona, Bloomfield Avenue; and

WHEREAS #9, this ordinance is intended to implement, in part, the aforesaid Agreement, covering the properties at Block 1807, Lots 2 through 12 inclusive and Lot 14, and excluding therefrom the parcels at Lot 1 and Lot 13 those lots being houses of worship and which are excluded from the effect of this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Verona, Essex County, New Jersey, as follows:

The WHEREAS paragraphs above shall be considered an operative part of this ordinance as though they are included in the following sections.

**SECTION 1. General Provisions and Zone Definition.** Chapter §150 of the General Ordinances of the Township of Verona entitled “Zoning” is hereby amended to rezone an approximate 3.17 acre area of the Township to add thereto a Town Center Mixed-Use (“TC MU”) zoning district at new Chapter § 150-17.14A covering the properties at Block 1807, Lots 2 through 12 and Lot 14 which properties may be merged or consolidated to form a cohesive development which shall include residential housing units including affordable



**Section 2. The TC-MU Zoning District Specifications.** A new section of the Township Code is hereby added at §150 - 17.14A and shall be known as the TC MU (TOWN CENTER-MIXED USE) ZONE. The following are the specifications applicable to the TC-MU Zone.

A. Principal Permitted Uses.

No building or premises shall be erected, altered or used except for uses designated for each property within the TC MU district as follows:

1. Retail stores and retail service establishments, including stores or shops or retail business conducted entirely within the confines of the first floor of a building having frontage along Bloomfield Avenue with a minimum building footprint depth of one-hundred feet (measured from the public right of way along Bloomfield Avenue to the rear {or back} of the retail or other non-residential establishment including those identified in the following paragraphs).
2. Cafeterias, full-service restaurants, snack and nonalcoholic beverage bars, confectionery and nut stores, retail bakeries. These uses shall have a maximum seating capacity of 100 patrons. The uses in this paragraph shall only be permitted on lots having frontage on Bloomfield Avenue.
3. Banks and other financial institutions, but not including drive in uses.
4. Theatrical and motion picture theaters.
5. Family day care centers.
6. Personal service establishments.
7. Residences - residential housing units, including a required set aside for affordable housing units, shall be a principle permitted use-when situated on the second and third stories of the properties fronting Bloomfield Avenue which shall have non-residential uses on the ground floor. Any property having any portion of a building bounded by Bloomfield Avenue shall be considered to front on Bloomfield Avenue.
8. Further, residences shall be a principle permitted use on the ground floor (or first floor) as well as the second and third stories of the properties fronting on the side streets of Montrose Avenue and South Prospect Street, or when a building fronting on Bloomfield Avenue has a depth of a minimum of 50 feet, then the residences may be built on the ground floor 50 feet or further upon the property to the south of Bloomfield Avenue.
9. While one pedestrian entrance to ALL of the residences in the TC - MU Zone, of not greater than twelve feet (12) in width, may be provided along Bloomfield Avenue, all other pedestrian entrances

shall be provided from the rear of any property located in the TC MU Zone or from Montrose Avenue or South Prospect Street. The provisions of Section 3 “Affordable Housing Multi-Family Residential Specifications” of this ordinance shall also be complied with.

B. Permitted Accessory Uses.

Any of the following accessory uses are permitted in conjunction with a permitted principal use:

1. Accessory uses customarily incidental to the principal or conditional use.
2. Outdoor restaurant seating in accordance with section § 150-7.23.
3. Sidewalk Cafe in accordance with section § 150-7.22.
4. Parking lots, including structured parking garages, not exceeding twenty-eight (28) feet in height, excluding a parapet wall not greater than six feet (6) feet in height. The parking structure shall contain a twenty-two (22) foot wide cartway, inclusive of ground floor visitor parking areas. No parking structure shall front on, or have direct access to, Bloomfield Avenue.
5. Amenity space(s) serving residences such as a fitness area, lobby, mailroom, meeting space for residences (not open to the general public), coffee service area, and the like as may be approved by the Verona Planning Board as being essential to the residences.
6. Internal roadways, parking areas, loading/unloading zones, courtyards and sidewalks. The internal drives shall contain a twenty-one (22) foot wide cartway.

C. Area, Yard, Bulk and Parking Regulations. Note: All setbacks shall be measured from dominant building wall(s). The appropriate dimension for building setbacks between dominant building walls, (defined as “full or complete” walls and excluding knee or hip walls and architectural walls or elements designed to add a wall feature and not be a load bearing wall) and part of any building, or property boundary shall be determined by the applicant’s Planner or Architect at the time of site plan review based on the geometry of the site.

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| 1. Minimum Lot Size (Square Feet)                            | 2,000 |
| 2. Minimum Lot Width (Feet)                                  | 50    |
| 3. Minimum Front Yard Setback (Feet)                         | 0     |
| 4. Minimum Side Yard Setback-One (Feet)                      | 0     |
| 5. Minimum Side Yard Setbacks-Both (Feet)                    | 0     |
| 6. Minimum Side Yard Setbacks-Both (Percentage of lot width) | NIA   |
| 7. Minimum Rear Yard Setback (Feet), this shall              |       |

exclusively mean and is defined as the boundary with the houses of worship at Block 1807, Lots 1 and 13.	20
8. Maximum Height for Principal Building (Stories / Feet)	3 / 50
9. Maximum Height for Accessory Structures other than parking structures. (Feet)	15
10. Maximum Building Coverage, first floor building area as a percent of land area. (Percent)	80
11. Maximum improved and landscaped lot coverage, defined as first floor building area plus impervious coverage, plus landscaped buffer area as a percent of land area. (Percent)	95
12. Minimum Landscaped Buffer along a residential zone (Feet) boundary, or along the boundary with any house of worship.	15
13. Parking provisions:	
i. Notwithstanding §150-12.6 B, pertaining to RSIS parking standards, which shall not apply to the TC MU Zone, any residential development(s) in the TC MU Zone shall provide a minimum of 1.5 vehicle(s) parking space(s) per residential unit.	
ii. A minimum of 83% of such parking spaces shall be provided on-site and the remainder of required parking spaces may be provided through a long-term parking space lease (or parking lot rental agreement) having a term of a minimum of ten (10) years. Such parking agreement or lease shall be in writing as at the time a site plan application is submitted to the Verona Planning Board.	
iii. A minimum of 5% of on-site parking spaces shall be exclusively reserved and identified for electrically charged vehicle. The parking space(s) shall be equipped with electric charging devices (or apparatus). In addition, if the State of New Jersey should require that a greater number of electrically charged vehicle spaces be required than is required herein, then that requirement shall be applicable to any site plan application to be filed under the provisions of this ordinance.	

D. Conditional Uses.

The following conditional uses which are permitted within the Town Center Zone as identified in the conditional use regulations of the Township's zoning ordinance shall NOT apply to the TC MU Zone, except where specified in Section 2 hereof.

1. Mixed retail and residential uses.
2. Mixed retail and commercial (non-medical) with residential uses.
3. Mixed retail and professional office (non-medical) with residential uses.

**Section 3. Affordable Housing Multi-Family Residential Specifications.** A new section of the Township Code is hereby added at §150 - 17.14B and shall be known as the TC MU (TOWN CENTER-MIXED USE) ZONE Residential Specifications. The properties at Block 1807, Lots 2 through 12 and Lot 14 shall be designated as the TC MU Zone which shall supersede the pre-existing TC Zone applicable to the properties when an application for site plan approval is filed for any multi-family residential development having greater than two (2) residential units.

- A. Any residential development shall set aside 15% of the units, when the units are rented, for affordable housing and 20% of the units for affordable housing, when the residential units are for sale.
- B. The intent of the TC MU Zone is to permit the development of an inclusionary multi-family residential development in which a certain proportion of the dwelling units are set aside for occupancy by low and moderate income households satisfying the FHA and Uniform Housing Affordability Controls ("UHAC", N.J.A.C. 5:80-26.1 et seq.).
- C. The residential multifamily residences situated in the TC MU Zone shall satisfy the following conditions:
  - i. There shall be no more than two bedrooms per residential unit, except three bedroom units shall be provided as required under UHAC.
  - ii. No more than seventy (80) residential units, or 25 residential units per acre, may be located in the TC MU.
  - iii. The maximum living space, meaning finished floor area in any unit, shall not exceed 1,100 square feet unless UHAC, or other affordable housing rule or regulation, requires a larger unit size, which said applicable larger unit size shall only be applicable to the affordable units.
- D. Primary materials for the exterior of buildings shall be brick, wood, Hardie Plank panels or similar fiber cement siding, stone, precast and cast stone and manufactured stone, and glass.
- E. All entrances to any building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, etc.
- F. An appropriate roof pitch and roofline architectural treatment is required. If a flat roof is designed (or proposed), then the architectural treatment must be aesthetically pleasing so the building does not look like a monolithic structure.
- G. Section §150-21.3 pertaining to Residential Fees shall NOT be applicable to the TC MU Zone.

**SECTION 4.** The Zoning Map of the Township of Verona as established and enacted in Section §150-3.2 is hereby amended to add thereto the TC MU Zone.

**SECTION 5.** Inconsistency. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 6.** Severability. If any sentence, section, clause, or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or repeal the remainder of this ordinance.

**SECTION 7.** Effective Date. This ordinance shall take effect twenty (20) days following passage and publication, or as otherwise required by law, and upon filing with the Planning Board of the County of Essex.