

**BOROUGH OF OLD TAPPAN  
ORDINANCE 1291-26**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 255: ZONING OF THE ORDINANCES OF THE BOROUGH OF OLD TAPPAN ESTABLISHING THE TOWN CENTER OVERLAY ZONES**

**WHEREAS**, the Fair Housing Act has been amended by the legislature to create a new process for the approval of municipal affordable housing plans for the Fourth Round pursuant to the New Jersey Supreme Court’s Mount Laurel doctrine; and

**WHEREAS**, the Borough of Old Tappan has filed a declaratory judgement action seeking a certificate of compliance from the newly created Program for the Fourth Round certifying the Borough’s Housing Element and Fair Share Plan satisfies the Borough’s constitutional obligation to provide for affordable housing; and

**WHEREAS**, the Borough has determined to amend the Borough’s zoning ordinance to establish the Town Center Overlay Zone in order to implement the Borough’s Fourth Round Housing Element and Fair Share Plan;

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Old Tappan, Bergen County, New Jersey that it does hereby amend, modify and supplement Chapter 255, Zoning as follows:

**BE IT ORDAINED** by the governing body of the Borough of Old Tappan that it does hereby amend and supplement Chapter Zoning Ordinance of the Borough of Old Tappan as follows:

**SECTION 1.** Article II, Zoning Districts and Zoning Map, §255-5, Districts Enumerated, is hereby amended and supplemented with the following new zoning districts:

TCO-MU	Town Center Overlay-Mixed Use District
TCO-PO	Town Center Overlay-Professional District

**SECTION 2.** Article II, Zoning Districts and Zoning Map, §255-7, Metes and bounds descriptions, is hereby amended and supplemented to zone the following properties within the TCO-MU and TCO-PO district:

The Zoning Map is hereby amended and supplemented as follows:

- R. Block 1606, Lots 5 and 6; Block 1101, Lots 1,2,3,5; Block 1102, Lots 1- 4 is hereby zoned within the TCO-MU District.
- S. Block 1605, Lots 4,5 and 6; Block 1606, Lot 8, Block 701, Lots 14.01,14.02 and 15; Block 701.01, Lot 16 in hereby zoned within the TCO-PO District.

**SECTION 3.** New Article XXVI entitled Town Center Overlay District is hereby added establishing district regulations as follows:

**XXVI Town Center Overlay District.**

**§255-125 Purpose.** The purpose of this zoning district is to encourage the construction of low and moderate-income housing in conformance with the latest procedural and substantive rules for affordable housing as required by the New Jersey Fair Housing Act or other applicable authority, by permitting mixed use commercial development with inclusionary multi-family development subject to the Town Center Overlay regulations enumerated herein. It is further the intent of the zone to promote neighborhood scale mixed use development. Large scale single user commercial development is to be discouraged in this zone

**§255-126 Zone Intent.** It is intended that this zone be developed as a mix of residential and commercial uses to satisfy the Borough's affordable housing obligation. It is further intended that the zone be developed in a comprehensive and coordinated fashion. Therefore, no development may proceed without a comprehensive development plan that demonstrates that the mix of commercial and residential components, including the affordable housing obligation, as required by this zone, are satisfied. This requirement should not be construed as precluding a phased development plan provided however, that such phasing guarantees the development of affordable housing as contemplated in the zone and in accordance with the Borough's affordable housing requirements and State affordable housing laws and regulations.

**§255-127 Principal permitted uses.**

A. Town Center Overlay-Commercial District (TCO-C).

- (1) Uses as permitted within the B-1 District.
- (2) Mixed-use development consisting of ground floor nonresidential development as permitted within the B-1, Local Business District, and apartment lobby, with apartments above, located within only that portion of the property subject to the minimum area and bulk requirements of the TCO Zone. Drive-throughs shall be permitted for any permitted nonresidential use component of mixed-use development, with the exception of restaurants or refreshment stands.
- (3) Multifamily residential in a stand-alone building provided that no more than 30% of the land area within the District shall be devoted to multifamily development that is not mixed-use.

B. Town Center Overlay-Professional District.

- (1) Business, executive and professional offices, such as, but not limited to, administrative offices, utility offices, medical and dental offices, insurance offices, offices of architects, engineers, surveyors or lawyers, real estate offices
- (2) Child care centers for which a license is required from the Department of Human Services pursuant to N.J.S.A. 30:5B-1 et seq.

**§255-128 Accessory Uses.** Any use which is ordinarily subordinate and customarily incidental to the principal permitted uses allowed in the TCO Zone.

**§255-129 Prohibited Uses.** Any use not specifically permitted herein is prohibited.

**§255-130 Permitted Density.** The maximum permitted residential density shall not exceed 15 dwelling units per acre.

**§255-131 TCO Zone District Regulations.** The following regulations are applicable to any development within the TCO District.

A. TCO-MU Regulations

- (1) Minimum lot area (acres): 9
- (2) Minimum setbacks from external lot lines (feet):
  - (a) Front yard: 50
  - (b) Side yard:
    - 1. Abutting residential use 50
    - 2. Abutting commercial use 15
    - 3. Rear yard: 50
- (3) Maximum number stories and building height: 3 stories/45
- (4) Maximum building lot coverage: 35 percent
- (5) Maximum impervious lot coverage: 75 percent

**B. TCO-PO Regulations**

- (1) Minimum lot area (square feet): 30,000
- (2) Minimum setbacks from external lot lines (feet):
  - (a) Front yard: 25
  - (b) Side yard:
    - 1. Abutting residential use 50
    - 2. Abutting commercial use 15
  - (c) Rear yard: 50
- (3) Maximum number stories and building height: 3 stories/45
- (4) Maximum building lot coverage: 35 percent
- (5) Maximum impervious lot coverage: 75 percent

C. Buffer Requirements. Where development abuts a residential zone a required buffer shall correspond to the required setback and shall comply with the requirements of §255-133 B.

**§255-132 TCO Zone District Parking Regulations**

- A. Residential Site Improvement Standards (RSIS) shall apply for stand-alone multifamily development.
- B. Required parking for mixed use buildings shall be calculated as the sum of required parking for each component use.
- C. Recognizing there may be opportunities to reduce parking due to the mixed use nature of development contemplated in the Town Center Overlay District, an applicant may request that parking standards be relaxed in accordance with a detailed parking demand analysis submitted by a qualified New Jersey Licensed Professional Traffic Engineer. Such request may be granted at the discretion of the Planning Board and only if the Board is satisfied that such reduction is warranted based upon the information presented.
- D. Parking Design Requirements.

1. All exterior parking shall be landscaped, screened, and lighted, as specified in §250-133 C herein pursuant to site plan approval to be granted by Planning Board.
2. Structured parking is permitted but shall be contained below principal buildings and not as stand-alone structures. The total area of structured parking shall at minimum be no less than 75 percent below grade provided further however, that such structured parking can be accessible from proposed driveways and streets at grade level. For that portion of structured parking that is above grade the exposed walls shall not exceed a maximum height of 5-feet.
3. Loading areas servicing commercial uses shall be designated and approved as part of any site plan application for development.

### **§255-133 TCO Zone Site Development Requirements.**

#### **A. Landscaping.**

1. Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts and provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. The impact of any proposed landscaping plan at various time intervals shall be considered. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat (wet-site, drought, sun and shade tolerance), soil conditions, growth rate, longevity; root pattern, maintenance requirements, etc., shall be considered. Consideration shall be given to accenting site entrances and unique areas with special landscaping treatment. Flowerbed displays are encouraged.
2. Landscaped islands shall be at least six feet in width to accommodate plantings.
3. A minimum 10-foot landscaped buffer consisting of a dense evergreen mass shall be planted along the perimeter of the property to form a screen from adjoining properties.
4. Landscaping within sight triangles shall not exceed a mature height of 30 inches. Shade trees shall be pruned up to an 8-foot branching height above grade.
5. All areas that are not improved with buildings, structures and other man-made improvements shall be landscaped with trees, shrubs, ground cover, street furniture, sculpture or other design amenities.
6. Shade trees shall be a minimum 2.5 to 3-inch caliper with a canopy height of at least the minimum American Nursery and Landscape Association Standards for this caliper.

- (1) Ornamental Trees shall be installed at a minimum size of 6 feet in height.
  - (2) Shrubs shall be planted at a minimum size of 18 to 24 inches.
  - (3) All plant material shall meet the minimum latest American Nursery and Landscape Association Standards.
  - (4) Irrigation shall be provided for all landscape and lawn areas in a manner appropriate for the specific plant species.
  - (5) A growth guarantee of two growing seasons shall be provided and all dead or dying plants shall be replaced by the applicant, as required, to maintain the integrity of the site plan.
7. Landscape Plantings. The preference is for all plant materials to be indigenous to the region herein defined as the Bergen County region but in no event shall the plant materials be comprised of less than 50 percent indigenous species.
8. Plant species identified as “invasive” as identified by the New Jersey Department of Environmental Protection are prohibited.
9. Irrigation shall be provided to all landscaped areas.
10. Landscape Plan Content. A landscape plan shall be submitted with each major site plan or major subdivision application. In addition to the major site plan or subdivision submission requirements, the landscape plan shall include and identify the following information:
- (a) Existing and proposed underground and above ground utilities such as site lighting, transformers, hydrants, manholes, valve boxes, etc. existing wooded areas, rock outcroppings and existing and proposed water bodies.
  - (b) Existing and proposed topography and location of all landscaped berms.
  - (c) Location, species and sizes of all proposed shade trees, ornamental trees, evergreen trees and shrubs and areas for lawns or any other ground cover. Different graphic symbols shall be used to show the location and spacing of shade trees, ornamental trees, evergreen trees, shrubs and ground cover. The size of the symbol must be representative of the size of the plant shown to scale.
  - (d) A plant schedule indicating botanical name, common name, size at time of planting (caliper, height and spread), quantity, root condition and any special remarks (spacing, substitutions, etc.) for all plant material proposed. Plants within the plant schedule shall be keyed to the landscape plan utilizing the first letter of the botanical plant name.

(e) Planting and construction details and specifications.

B. Buffer Zone Requirements.

1. Any buffer zone shall remain in its natural state where wooded, or shall otherwise consist of new landscaping and plantings, including year-round plantings of both deciduous and evergreen type trees, which may be combined and integrated with berm areas. Said new landscaping and planting shall provide a year-round visual screen and shall be comprised of plant material that is at least six feet in height planted six feet on centers with staggered planting to be provided where practicable.
2. No buildings, structures, driveways, parking or loading areas or other use of the land shall be permitted within any buffer area, provided however that decorative walls and fences may be erected only at the edge or perimeter of the buffer zone.
3. Notwithstanding the provisions of Subsection A hereof, pertaining to the required depth of a buffer zone, upon an application for development of a particular property as a planned residential development, the Planning Board may increase the required buffer zone to a maximum depth of 100 feet, upon the Board's specific findings of particular circumstances relating to conditions of topography, natural features, lot configuration, natural vegetation or the lack thereof, soil conditions, drainage or other related site characteristics, or where such proposed planned residential development is incompatible with existing adjacent development.

C. Lighting.

1. All lighting fixtures and foot-candle standards for parking areas and recreation facilities shall be consistent with the standards outlined by the Illuminating Engineering Society of North America (IESNA).
2. A lighting plan prepared by a qualified professional shall be provided with site plan applications.
3. The intensity, shielding, direction and reflecting of lighting shall be subject to site plan approval by the Planning Board.
4. All parking areas, walkways, building entrances, and driveways required for uses in this zone shall be adequately illuminated during the hours of operation that occur after sunset.
5. Lighting shall be shielded so as to prevent glare from adversely impacting surrounding properties.
6. Lighting shall be dark sky compliant pursuant to the standards of Dark Sky International.

D. Sidewalks. Within the development, sidewalks shall be required in accordance with the RSIS standards or as deemed appropriate by the Board. Sidewalks proposed within the public right of way shall be no less than four feet.

- E. Signage. Identification Sign. One (1) wall mounted, non-illuminated address sign is permitted for each building with a maximum area of 5-square feet per sign, as well as a ground mounted sign, at any site driveway, setback from the property line by 10 feet and with a maximum sign area of 32 square feet and height of 6 feet (including base), which may be internally or externally illuminated. The base of the monument sign shall be appropriately landscaped.
- F. To provide for the appropriate transition and relationship of proposed development to Old Tappan Road and the surrounding area and taking into consideration the specific topographic conditions within the zone, the regulations regarding permitted maximum building height, as provided herein, are as follows:
1. Building height shall mean the vertical distance from the average ground elevation of the building or structure to the level of the highest point measured at the building corners from the first finished floor.
  2. The height limit shall not apply to roof-mounted heating, air-conditioning or other mechanical equipment, except that such equipment shall not exceed a maximum height of 10-feet and shall not occupy more than 25% of the roof area. Additionally, such equipment shall setback from the roof edge a minimum of 10 feet and be screened by a wall, cover or by other means and that such screening shall be in keeping with the architectural motif of the building.
  3. Building height for all other structures shall be limited to a building height of 3-stories over below grade structured parking. The maximum building height shall not exceed 45 feet.
- G. Architectural Design Standards.
1. Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.
  2. Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:
    - (a) Each vertical articulation shall be no greater than thirty (30) feet apart.
    - (b) Each vertical articulation shall be a minimum of one (1) foot deep.
    - (c) Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in depth.
    - (d) Building walls with expansive blank walls are prohibited on any building façade regardless of its orientation.

3. Architectural Materials.

- (a) Permitted Foundation Materials: Brick masonry, stone masonry, cement-parged concrete block;
- (b) Permitted Façade Materials: Brick masonry, stone masonry, stucco, wood siding/shingles for buildings designed to resemble a single-family residential building type only, fiber-cement siding/shingles to resemble a single-family residential building type only;
- (c) Permitted Façade Accent Materials: Cast Stone, wood, fiber-cement trim, siding, and panels, composite trim, siding, and panels, architectural metal.

- 4. Rooflines. Roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- 5. All ground level retail and service use that face a public street shall have clear glass on at least 60% of their facades between two and eight feet above grade.
- 6. Fenestration shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
- 7. All buildings should relate harmoniously to the site's natural features and existing buildings, as well as other structures in the vicinity that have a visual relationship and orientation to the proposed buildings. Such features should be incorporated into the design of building form and mass and assist in the determination of building orientation in order to preserve visual access to natural and man-made community focal points.
- 8. Buildings should be broken into segments having vertical orientation. A visual or physical break shall be required where buildings have a front wall that exceeds 125 feet in length, and in such case a visual or physical break shall be provided minimally every 50 linear feet.
- 9. Buildings with expansive blank walls are prohibited. Appropriate facade treatments should be imposed to ensure that such buildings and facades are integrated with the rest of the development and the entirety of the building.
- 10. New buildings are encouraged to incorporate such building elements as entrances, corners, graphic panels, display windows, etc., as a means to provide a visually attractive environment.
- 11. Cornices, awnings, canopies, flagpoles, signage, and other ornamental features should be encouraged as a means to enhance the visual environment. Such features may be permitted to project over pedestrian sidewalks, with a minimum vertical clearance of 8.5 feet, to within four feet of a curb.

12. A "human scale" of development should be achieved at grade and along street frontages through the use of such elements as windows, doors, columns, awnings and canopies.
13. Multi-tenant buildings shall provide varied storefronts and such elements as noted above for all ground-floor tenants. Upper floors shall be coordinated with ground floors through common materials and colors.
14. Design emphasis should be placed on primary building entrances. They should be vertical in character, particularly when there is the need to provide contrast with a long linear building footprint, and such details as piers, columns, and framing should be utilized to reinforce verticality.
15. Refuse and recycling shall be located interior to a building or alternatively, if located outside, the refuse area shall be appropriately screened by decorative masonry wall consistent with the type of building materials used within the development not to exceed 6 feet.
16. Rooftop utilities including HVAC units shall be shielded from public view with appropriate screening that complements the character of the building's architecture.

**§255-134 Mandatory Set Aside Requirement.** Residential development, as permitted by this Article, shall be subject to a mandatory 20% affordable housing set aside and further shall comply with all provisions of the Fair Housing Act, N.J.S.A. 52:27D-301, et. seq. ("FHA"), as was amended in 2024, the newly adopted Uniform Housing Affordability Controls ("UHAC") regulations, N.J.A.C. 5:80-26.1 et seq., and newly adopted N.J.A.C. 5:99-1 et. seq. as incorporated into Chapter 80 of the Borough Code titled "Affordable Housing"

**SECTION 4.** The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Somerset County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15 and 40:55D-62.1. The Borough Clerk shall execute any necessary Proofs of Service of the notices required by this section and shall keep any such proofs on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

**SECTION 5.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Land Use Board of the Borough of Peapack for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Land Use Board, acting in its capacity as Planning Board, is directed to make and transmit to the Borough Council, within thirty-five (35) days after referral, a report including identification of any provision 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 6.** If any 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 the Ordinance shall be deemed valid and effective.

**SECTION 7.** All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 8.** This ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in

accordance with the laws of the State of New Jersey.