

**ORDINANCE NO. 4 OF 2026**

**ORDINANCE OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, STATE OF NEW JERSEY, AMENDING CHAPTER 198, ARTICLE VI, SECTION 198-51.1 TITLED “AFFORDABLE HOUSING OVERLAY - B1 (AHO-B1) ZONE”, SECTION 198-51.3 TITLED “AFFORDABLE HOUSING OVERLAY - B1A (AHO-B1A) ZONE” AND SECTION 198-54 TITLED “AFFORDABLE HOUSING OVERLAY - B3 (AHO-B3) ZONE” IN THE CODE OF THE CITY OF BRIGANTINE**

**WHEREAS**, the New Jersey Supreme Court and the New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and the New Jersey Fair Housing Act, i.e. N.J.S.A. 52:27D-301, et seq. that every municipality in New Jersey has an affirmative obligation to facilitate the provisions of affordable housing; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the New Jersey Fair Housing Act (“Amended FHA”); and

**WHEREAS**, the City of Brigantine (“City”) filed a timely Fourth Round Declaratory Judgment action (“DJ Action”) with the Affordable Housing Dispute Resolution Program (“Program”) under Docket No. ATL-L-105-25, along with its binding resolution, on January 16, 2025; and

**WHEREAS**, the filing of the DJ Action gave the City automatic, continued immunity from all exclusionary zoning lawsuits, including builder’s remedy lawsuits, which is still in full force and effect; and

**WHEREAS**, the City did not receive any objections to its Present and Prospective Need numbers by February 28, 2025, resulting in the statutory automatic acceptance of the City’s Fourth Round obligations on March 1, 2025; and

**WHEREAS**, on March 27, 2025, the Program prepared an order fixing the City’s obligation and authorizing the City to proceed with preparing and adopting its Housing Element and Fair Share Plan (“HEFSP”) for the Fourth Round; and

**WHEREAS**, on June 30, 2025, the City filed its HEFSP; and

**WHEREAS**, on August 29, 2025, Fair Share Housing Center (“FSHC”) objected to the City’s HEFSP; and

**WHEREAS**, on January 16, 2026, the City entered into a mediation agreement with FSHC, authorized by the City Council by way of Resolution No. 2025-276; and

**WHEREAS**, as a result of the mediation agreement, the City amended its HEFSP (“Amended HEFSP”), which was approved by the City Planning Board on February 26, 2026; and

**WHEREAS**, the Amended HEFSP requires that certain existing overlay zones be amended; and

**WHEREAS**, the City Council wishes to amend the existing overlay zones pursuant to the Amended HEFSP; and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Brigantine, Atlantic County, New Jersey, that Chapter 198 of the Code of the City of Brigantine is hereby amended with the following (**underline and bold** indicates an addition and ~~strikethrough and bold~~ indicates a deletion):

**ARTICLE I. AMEND Chapter 198, Article VI, Section 198-51.1 Affordable Housing Overlay - B1 (AHO-B1) Zone**

**A. Purpose.**

- (1) The purpose of the Affordable Housing Overlay B1 (AHO-B1) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable

housing (low- and moderate-income housing). If the affordable units are for sale, the set-aside shall be 20%. If the affordable units are for rent, the set-aside shall be ~~15~~20%.

B. Designated overlay area.

(1) The AHO-B1 Zone will encompass a portion of the B1 (Business) Zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail and service uses that is located along Atlantic-Brigantine Boulevard and is listed on the Tax Map as Block 3701, Lots 1-9 and Block 3702, Lots 1-9. The overlay zone at this location will provide for up to three residential floors above the existing or new commercial uses. There will be a ~~15%~~ 20% set-aside for affordable family rental units with 13% of the affordable units for very-low-income households. The underlying B1 Zone, its permitted uses, area and bulk requirements shall remain unchanged unless the overlay district option for Affordable Housing is implemented by the property owner(s) or developer.

**ARTICLE II. AMEND Chapter 198, Article VI, Section 198-51.3 Affordable Housing Overlay: B1A Town Center (AHO-B1A) Zone:**

A. Purpose.

(1) The purpose of the Affordable Housing Overlay B1A (AHO-B1A) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). ~~If the affordable units are for sale, the set-aside shall be 20%. If the affordable units are for rent, the set-aside shall be 15%.~~ The affordable units will be for rent; the set-aside shall be 20%.

B. Designated overlay area.

(1) The AHO-B1A Zone will encompass a portion of the B1A (Business) Zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail store (former CVS Store) that is located along Brigantine Avenue and is listed on the Tax Map as Block 806, Lot 1. The overlay zone at this location will provide for up to three residential floors with the potential of parking underneath the structure. There will be a ~~15%~~ 20% set-aside for affordable family rental units with 13% of the affordable units for very-low-income households. The underlying B1A Zone, its permitted uses, area and bulk requirements shall remain unchanged unless the overlay district option for Affordable Housing is implemented by the property owner(s) or developer.

**ARTICLE III. AMEND Chapter 198, Article VI, Section 198-54 Affordable Housing Overlay: B3 Town Center (AHO-B3) Zone:**

A. Purpose.

(1) The purpose of the Affordable Housing Overlay B3 (AHO-B3) overlay zone is to create an incentive to redevelop property for inclusionary development. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). The affordable

units will be for rent; the set-aside shall be ~~15%~~ 20%.

B. Designated overlay area.

(1) The AHO-B3 Zone will encompass a portion of the B3 (Business) Zone. This District will be the focus of an overlay zone with residential uses over existing commercial. This zone contains a shopping area (Town Center) that is located between Harbor Beach Boulevard, 38th Street, Bayshore and Amhurst Avenue (Block 3804, Lot 1). The overlay zone at this shopping center will provide for three residential floors above commercial. There will be a ~~15%~~ 20% set-aside for affordable family rental units with 13% of the affordable units for very-low-income households. The underlying B-1 zone, its permitted uses, area and bulk requirements shall remain unchanged unless the overlay district option for Affordable Housing is implemented by the property owner(s) or developer.

**ARTICLE IV. Repealer, Severability, and Effective Date.**

A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.

C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

**ACTION ON INTRODUCTION: February 18, 2026**

Motion made by: Councilman Lettieri

Motion seconded by: Councilman Kane

**VOTE ON INTRODUCTION:**

- Deputy Mayor Bew:  Yes  No  Abstain  Not Present
- Councilman Lettieri:  Yes  No  Abstain  Not Present
- Councilman Haney:  Yes  No  Abstain  Not Present
- Councilman Virgilio:  Yes  No  Abstain  Not Present
- Councilman Kane:  Yes  No  Abstain  Not Present
- Councilman Riordan:  Yes  No  Abstain  Not Present
- Mayor Sera:  Yes  No  Abstain  Not Present

**ACTION ON ADOPTION (after public hearing)**

Motion made by: Councilman Virgilio

Motion seconded by:

Deputy Mayor Bew

**VOTE ON ADOPTION:**

- Deputy Mayor Bew:             Yes    No    Abstain    Not Present
- Councilman Lettieri:         Yes    No    Abstain    Not Present
- Councilman Haney:            Yes    No    Abstain    Not Present
- Councilman Virgilio:         Yes    No    Abstain    Not Present
- Councilman Kane:             Yes    No    Abstain    Not Present
- Councilman Riordan:         Yes    No    Abstain    Not Present
- Mayor Sera:                     Yes    No    Abstain    Not Present

I certify that this ordinance was introduced at a properly advertised public meeting on the 18<sup>th</sup> of February, 2026, published pursuant to law and the subject of a second reading and public hearing on March 4, 2026 prior to final adoption.

Christine Murray  
Christine Murray, Acting City Clerk