ORDINANCE NO. 7 -2014

AN ORDINANCE TO PROVIDE FOR THE PARTIAL AMENDMENT AND SUPPLEMENTATION OF "CHAPTER 13, 2000 BOROUGH OF MORRIS PLAINS LAND DEVELOPMENT ORDINANCE" TO PROVIDE FOR THE FOLLOWING: (1) THE PARTIAL AMENDMENT AND SUPPLEMENTATION OF SECTION 13-5.1C, "SCHEDULE 'C' SCHEDULE OF PERMITTED USES, TO PERMIT SHELTERS, SUPPORTIVE AND SPECIAL NEEDS HOUSING, SUPPORTIVE SHARED LIVING HOUSING, TRANSITIONAL HOUSING AND PERMANENT SUPPORTIVE HOUSING AS PRINCIPAL PERMITTED USES IN THE R-2 ZONE; (2) THE ESTABLISHMENT OF A NEW SECTION 13-5.2B "SPECIAL USE PROVISIONS" WITH A NEW PARAGRAPH (15) ENTITLED "SHELTERS, SUPPORTIVE AND SPECIAL NEEDS HOUSING, SUPPORTIVE SHARED LIVING HOUSING, TRANSITIONAL HOUSING AND PERMANENT SUPPORTIVE HOUSING"; (3) THE ESTABLISHMENT OF NEW AF-1 AND AF-2 AFFORDABLE HOUSING RESIDENTIAL DISTRICTS; (4) THE REZONING OF LOT 3.02 IN BLOCK 101 TO THE NEW AF-1 AFFORDABLE HOUSING RESIDENTIAL DISTRICT AND THE REZONING OF LOT 1 IN BLOCK 112 AND LOTS 36, 36.01, 37, 38, 39, 40, 41, 42 IN BLOCK 113 TO THE NEW AF-2 AFFORDABLE HOUSING RESIDENTIAL DISTRICT; AND (5) AMENDING SECTION 13-5.1B, "ZONING MAP," CONSISTENT WITH THE FOREGOING AF-1 AND AF-2 ZONE DISTRICTS.

WHEREAS, the Borough Council is desirous of establishing new AF-1 and AF-2 Affordable Housing Residential Districts; and

WHEREAS, the Borough Council is also desirous of adopting certain amendments to R-2 zone district to permit shelters, supportive and special needs housing, supportive shared living housing, transitional housing and permanent supportive housing as principal permitted uses and establish special use provisions relating thereto; and

WHEREAS, the Borough Council proposes to amend "Chapter 13, 2000 Borough of Morris Plains Land Development Ordinance" (hereinafter ("Chapter

13") consistent with these objectives.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Morris Plains, they being the Governing Body thereof, as follows:

Section 1:

Section 13-2.1, Definitions of Terms, of Chapter 13 is hereby amended and supplemented with the addition of the following definitions:

ALTERNATE LIVING ARRANGEMENTS: A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

PERMANENT SUPPORTIVE HOUSING: A permanent lease based housing unit that provides access to supportive services for individuals with special needs and households with individuals with special needs who can benefit from housing with services.

SHELTER An emergency shelter or safe house which must be licensed by the DCA. Shelters shall be governed under the Bureau of Rooming and Board House Standards: Rules Governing Shelters for the Homeless (NJSA 55:13C-1). The Act notes an ever present need for the emergency shelter for victims of fire, natural disasters, domestic violence and other causes of homelessness." For purpose of the act, an "emergency shelter for the homeless shall mean a building or structure in which a public entity or a private, nonprofit organization provides shelter, or food and shelter, for a limited period of time to individuals and families having neither a home nor the means to obtain a home or other temporary lodging."

SUPPORTIVE AND SPECIAL NEEDS HOUSING: A structure or structures in which individuals or households reside, as delineated in N.J.A.C. 5:97-6.10, previously referred to as alternative living arrangements.

SUPPORTIVE SHARED LIVING HOUSING: Permanent lease based supportive housing that provides access to supportive services to individuals with special

needs who maintain separate leases for bedrooms and share common living space.

TRANSITIONAL HOUSING: Housing with on-site or off-site supportive services that facilitate the movement of individuals and families, who are homeless or lack stable housing to permanent housing, within a fixed amount of time, generally up to 24 months.

Section 2:

Section 13-5.1C, Schedule "C", SCHEDULE OF PERMITTED USES of Chapter 13 is hereby amended, supplemented and revised with the addition of "shelters, supportive and special needs housing, supportive shared living housing, transitional housing and permanent supportive housing as principal permitted uses in the R-2 zone district and Footnotes to Schedule "C" is hereby amended with the addition of a new footnote (15) which shall read "Subject to the Special Use Provisions set forth in Section 13-5.2B(15).

Section 3:

Section 13-5.2B, SPECIAL USE PROVISIONS of Chapter 13 is hereby amended and supplemented with the addition of a new subsection (15), which shall read as follows:

(15) **SHELTERS, SUPPORTIVE AND SPECIAL NEEDS HOUSING, SUPPORTIVE SHARED LIVING HOUSING, TRANSITIONAL HOUSING AND PERMANENT SUPPORTIVE HOUSING.** Wherever permitted in this Chapter, shelters, supportive and special needs housing, supportive shared living housing, transitional housing and permanent supportive housing uses shall meet the following requirements:

(15.1) The minimum lot area for the zone district in which the use is located shall be met; provided, however, that no lot shall contain less than two (2) acres.

(15.2) All yard and setback requirements of the zone district shall be met; provided, however, that no yard shall be less than the height of the facility.

(15.3) Adequate off-street parking shall be provided. Parking areas and driveways shall meet parking setback requirements of the use.

(15.4) Fencing or screening shall be provided as required by the Planning Board.

(15.5) Building design shall be consistent with the character of the neighborhood in which the use is to be located.

(15.6) All applicable provisions of Article 5 of this Chapter relating to site plan approval shall be complied with.

(15.7) This Section shall not apply to any use or building expressly or by implication permitted by right in any zone.

Section 4:

Chapter 13 is hereby amended and supplemented with the addition of a new Section 13-5.6.3, entitled "AF-1 – AFFORDABLE HOUSING RESIDENTIAL DISTRICT," which shall read as follows:

§ 13-5.6.3 AF-1 - AFFORDABLE HOUSING RESIDENTIAL DISTRICT.
Multi-family affordable housing developments in the AF-1 District shall comply with all of the following requirements:

A. **PERMITTED PRINCIPAL USES.** The AF-1 District is intended for apartment dwelling units for low and moderate income households at affordable rates in compliance with COAH rules and regulations.

B. **MINIMUM LOT AREA.** There shall be a minimum lot area of 110,000 square feet.

C. **MAXIMUM DENSITY.** The residential density shall not exceed twenty-five (25) units per acre. All dwelling units shall be limited to occupancy by low and moderate-income households and where appropriate, also satisfying the age restrictions herein provided.

D. **MINIMUM BOUNDARY LINE SETBACK.** No principal building shall be located closer than 25 feet to a tract boundary line. Building extensions extending 3' or less shall not be included within setback limitations.

E. **MAXIMUM BUILDING COVERAGE.** The total lot coverage by all buildings, shall not exceed twenty (20%) percent of the lot area.

F. **MAXIMUM IMPERVIOUS COVERAGE.** The total lot coverage by all impervious surfaces, including buildings, shall not exceed eighty (80%) percent of the lot area.

G. **MAXIMUM BUILDING HEIGHT.** No principal building shall exceed a height of four (4) stories or 58 feet.

H. **ACCESSORY BUILDINGS AND STRUCTURES.** Accessory buildings and structures shall be subject to the following requirements:

(1) Maximum Height. No accessory building, except for a parking deck as hereinafter regulated, shall exceed a height of 16 feet.

(2) Setbacks. Accessory buildings shall meet the boundary line setback requirements applicable to principal buildings.

(3) Signs. Notwithstanding the provisions of Section 13-5.8B (2), one freestanding identification sign shall be permitted on each street on which the development fronts. Any such sign shall not exceed an area of 24 square feet on each side. Said sign shall be located in the front yard, at least 5 feet from the street right-of-way and at least 25 feet from an adjoining property line. Said sign shall not extend more than 6 feet above ground level and may be illuminated as specified in Section 13-5.8A(5.3).

I. **DWELLING UNIT REQUIREMENTS**. Individual dwelling units shall satisfy the following requirements:

(1) No dwelling unit shall contain more than three (3) bedrooms. Any room in a dwelling unit other than a kitchen, living room, bathroom, or dining room shall be considered a bedroom.

(2) Dwelling units shall satisfy the following minimum floor area sizes exclusive of loft areas.

1-bedroom unit - 550 sq. ft.
2-bedroom unit - 825 sq. ft.
3-bedroom unit – 1,100 sq.ft.

(3) Laundry Facilities. Each dwelling unit shall have access to community clothes washer and dryer facilities.

J. **CONSTRUCTION.** All buildings shall be constructed in accordance with all applicable building codes and, unless other standards are mandated by law, in accordance with the following:

(1) The standards for "Air-borne Noise and Structure-borne Sound Control" as specified in the current BOCA National Building Code, shall be complied with.

(2) The exterior of all accessory structures shall be in harmony architecturally with and be constructed of materials of a like character to those used in the principal structures.

K. **NOISE.** Sound levels from HVAC units shall comply with State industrial limits at residential zone lines, i.e. sixty-five (65) decibels during daytime and fifty (50) decibels at night.

L. **LOW AND MODERATE INCOME UNITS WITHIN THE AF-1 DISTRICT.**

(1) Occupancy Limitations. Low and moderate income housing units shall be limited to occupancy by household size established by the New Jersey Council on Affordable Housing (COAH).

(2) Occupancy Limitations. All age-restricted low and moderate income housing units, if any, shall be limited to occupancy by households satisfying the age criteria for age restricted housing established by the New Jersey Council on Affordable Housing (COAH).

(3) Affordable housing units shall meet the requirements as set forth in Section 13-5.2C4.

M. **LANDSCAPING REQUIREMENTS.** All development within the district shall comply with the following minimum landscaping requirements:

(1) Provide minimum width of landscaped buffers within the following yards:

(a) Front Yard: 15'
(b) Side yard (Building): 15'
(c) Rear Yard: 15'

(2) No use or structure shall be permitted within the required buffer area, except for the following, and only when it is demonstrated by the developer that such use and/or structures must be located within the buffer area in order to reasonably accommodate the permitted development. The Planning Board may in its review require supplemental planting or screening methods within or outside of the required buffer area.

(a) Fences, freestanding walls and retaining walls.
(b) Driveway and other access improvements providing direct access to the tract from an exterior roadway.
(c) Detention, retention and similar drainage facilities and utility structures.

(3) Within the landscape buffer areas, the developer shall maintain a landscaped screen containing a mix of deciduous and coniferous trees and shrubs of sufficient density, size and number to provide reasonable year-round buffering.

(4) Except for existing preserved or transplanted vegetation, evergreen trees shall be a minimum of six (6') feet in height when installed. All deciduous trees shall be two and one-half (2½) inches in caliper when installed. At least twenty-five (25%) percent of all deciduous trees shall be of a species native and indigenous to the area. Shrubs used as foundation and screen plantings shall be at least two (2') feet in height when installed.

N. **EMERGENCY FACILITIES.** Any multi-family residential development shall be suitably designed to facilitate emergency access by police, fire and first-aid service vehicles and personnel.

O. **ACCESSIBILITY FOR THE HANDICAPPED.** Any development shall be designed in accordance with the applicable standards for accessibility and/or occupancy by handicapped persons promulgated by the Federal government and/or the State of New Jersey or through their respective departments or agencies having jurisdiction in such matters.

P. **UTILITY AND DRAINAGE IMPROVEMENTS.** Any multi-family residential development shall be served by public water and public sanitary sewerage systems. All utility improvements, including, but not necessarily limited to storm drainage collection and conveyance systems, storm water management systems/facilities, sanitary sewerage collection

and disposal systems, water supply, gas, electric, telephone and cable television utilities shall be subject to review and approval by the Planning Board in accordance with the standards and procedures established at N.J.A.C. 5:21 et seq. (Residential Site Improvement Standards), the New Jersey Department of Environmental Protection and appropriate County and other State agencies, where applicable.

Section 5

:Chapter 13 is hereby amended and supplemented with the addition of a new Section 13-5.6.4, entitled "AF-2 – AFFORDABLE HOUSING RESIDENTIAL DISTRICT," which shall read as follows:

§ 13-5.6.4 AF-2 - AFFORDABLE HOUSING RESIDENTIAL DISTRICT.

Multi-family affordable housing developments in the AF-2 District shall comply with all of the following requirements:

A. **PERMITTED PRINCIPAL USES.** The AF-2 District is intended for apartment dwelling units for low and moderate income households at affordable rates in compliance with COAH rules and regulations.

B. **MINIMUM LOT AREA.** There shall be a minimum lot area of 5.00 acres.

C. **MAXIMUM DENSITY.** The residential density shall not exceed twenty-five (25) units per acre. All dwelling units shall be limited to occupancy by low and moderate-income households and where appropriate, also satisfying the age restrictions herein provided.

D. **MINIMUM BOUNDARY LINE SETBACK.** No principal building shall be located closer than 20 feet to a tract boundary line. Building extensions extending 3' or less shall not be included within setback limitations.

E. **MAXIMUM BUILDING COVERAGE.** The total lot coverage by all buildings, shall not exceed twenty-five (25%) percent of the lot area.

F. **MAXIMUM IMPERVIOUS COVERAGE.** The total lot coverage by all impervious surfaces, including buildings, shall not exceed eighty (80%) percent of the lot area.

G. **MAXIMUM BUILDING HEIGHT.** No principal building shall exceed a height of four (4) stories or 58 feet.

H. **ACCESSORY BUILDINGS AND STRUCTURES.** Accessory buildings and structures shall be subject to the following requirements:

(1) Maximum Height. No accessory building, except for a parking deck as hereinafter regulated, shall exceed a height of 24 feet.

(2) Setbacks. Accessory buildings shall meet the boundary line setback requirements applicable to principal buildings.

(3) Signs. Notwithstanding the provisions of Section 13-5.8B (2), one freestanding identification sign shall be permitted on each street on which the development fronts. Any such sign shall not exceed an area of 24 square feet on each side. Said sign shall be located in the front yard, at least 5 feet from the street right-of-way and at least 25 feet from an adjoining property line. Said sign shall not extend more than 6 feet above ground level and may be illuminated as specified in Section 13-5.8A(5.3).

I. **DWELLING UNIT REQUIREMENTS**. Individual dwelling units shall satisfy the following requirements:

(1) No dwelling unit shall contain no more than three (3) bedrooms. Any room in a dwelling unit other than a kitchen, living room, bathroom or dining room shall be considered a bedroom.

(2) Dwelling units shall satisfy the following minimum floor area sizes exclusive of loft areas.

1-bedroom unit – 550 sq. ft.
2-bedroom unit – 825 sq. ft.
3-bedroom unit – 1,100 sq. ft.

(3) Laundry Facilities. At a minimum, each dwelling unit shall have access to community clothes washer and dryer facilities.

J. **CONSTRUCTION.** All buildings shall be constructed in accordance with all applicable building codes and, unless other standards are mandated by law, in accordance with the following:

(1) The standards for "Air-borne Noise and Structure-borne Sound Control" as specified in the current BOCA National Building Code shall be complied with.

(2) The exterior of all accessory structures shall be in harmony architecturally with and be constructed of materials of a like character to those used in the principal structures.

K. **NOISE.** Sound levels from HVAC units shall comply with State industrial limits at residential zone lines, i.e. sixty-five (65) decibels during daytime and fifty (50) decibels at night.

L. **LOW AND MODERATE INCOME UNITS WITHIN THE AF-2 DISTRICT.**

(1) Occupancy Limitations. Low and moderate income housing units shall be limited to occupancy by household size established by the New Jersey Council on Affordable Housing (COAH).

(2) Occupancy Limitations. All age-restricted low and moderate income housing units, if any, shall be limited to occupancy by households satisfying the age criteria for age restricted housing established by the New Jersey Council on Affordable Housing (COAH).

(3) Affordable housing units shall meet the requirements as set forth in Section 13-5.2C4.

M. **LANDSCAPING REQUIREMENTS.** All development within the district shall comply with the following minimum landscaping requirements:

(1) Provide minimum width of landscaped buffers within the following yards:

(a) Front Yard: 15'
(b) Side yard (Building): 15'
(c) Rear Yard: 15'

(2) No use or structure shall be permitted within the required buffer area, except for the following, and only when it is demonstrated by the developer that such use and/or structures must be located within the buffer area in order to reasonably accommodate the permitted development. The Planning Board may in its review require supplemental planting or screening methods within or outside of the required buffer area.

(a) Fences, freestanding walls and retaining walls.
(b) Driveway and other access improvements providing direct access to the tract from an exterior roadway.
(c) Detention, retention and similar drainage facilities and utility structures.

(3) Within the landscape buffer areas, the developer shall maintain a landscaped screen containing a mix of deciduous and coniferous trees and shrubs of sufficient density, size and number to provide reasonable year-round buffering.

(4) Except for existing preserved or transplanted vegetation, evergreen trees shall be a minimum of six (6') feet in height when installed. All deciduous trees shall be two and one-half (2½) inches in caliper when installed. At least twenty-five (25%) percent of all deciduous trees shall be of a species native and indigenous to the area. Shrubs used as foundation and screen plantings shall be at least two (2') feet in height when installed.

N. **EMERGENCY FACILITIES.** Any multi-family residential development shall be suitably designed to facilitate emergency access by police, fire and first-aid service vehicles and personnel.

O. **ACCESSIBILITY FOR THE HANDICAPPED.** Any development shall be designed in accordance with the applicable standards for accessibility and/or occupancy by handicapped persons promulgated by the Federal government and/or the State of New Jersey or through their respective departments or agencies having jurisdiction in such matters.

P. **UTILITY AND DRAINAGE IMPROVEMENTS.** Any multi-family residential development shall be served by public water and public sanitary sewerage systems. All utility improvements, including, but not necessarily limited to storm drainage collection and conveyance systems, storm water management systems/facilities, sanitary sewerage collection and disposal systems, water supply, gas, electric, telephone and cable television utilities shall be subject to review and approval by the Planning Board in accordance with the standards and procedures established at N.J.A.C. 5:21 et seq. (Residential Site Improvement Standards), the New Jersey Department of Environmental Protection and appropriate County and other State agencies, where applicable.

Section 6:

The Zoning Map entitled, "Zoning Map, Borough of Morris Plains", adopted pursuant to Section 13-5.1B of Chapter 13 is hereby amended, supplemented and revised so that the following described properties as shown on the Official Tax Map of the Borough of Morris Plains, be and they are hereby

rezoned to place the same in the AF-1 Affordable Housing Residential District:

> Block 101, Lot 3.02, which is presently in the R-4, Single-Family/Townhouse District.

Section 7:

The Zoning Map entitled, "Zoning Map, Borough of Morris Plains", adopted pursuant to Section 13-5.1B of Chapter 13 is hereby amended, supplemented and revised so that the following described properties as shown on the Official Tax Map of the Borough of Morris Plains, be and they are hereby rezoned to place the same in the AF-2 Affordable Housing Residential District:

> Block 112, Lot 1, and Block 113, Lots 36, 36.01, 37, 38, 39, 40, 41, 42, which are presently in the R-2 Residential District.

Section 8:

All other provisions of "Chapter 13, 2000 Borough of Morris Plains Land Development Ordinance" shall be unaffected and are hereby continued.

Section 9:

All other Ordinances, parts of Ordinances or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.

Section 10:

This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law. Notwithstanding that any provision of this

Ordinance is, for any reason, held to be invalid or unconstitutional by a Court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue to be of full force and effect. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

Section 11:

The Borough Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled to notice pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-62.1 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Borough Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Morris County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

Section 12:

This Ordinance shall take effect immediately after final passage and publication and upon thirty (30) days from the receipt of the ordinance by the County Planning Board.

Introduced: April 17, 2014
Adopted: May 1, 2014

/s/ Frank J. Druetzler