

**ORDINANCE #O-08-2023**

**AN ORDINANCE AMENDING CHAPTER XXX (LAND USE REGULATIONS) OF THE GENERAL ORDINANCES THE BOROUGH OF MONMOUTH BEACH.**

BE IT ORDAINED by the Mayor and Borough Commissioners of the Borough of Monmouth Beach, County of Monmouth, and State of New Jersey that Chapter XXX (Land Use Regulations) of the General Ordinances of the Borough of Monmouth Beach is hereby amended or supplemented as follows:

**PURPOSE**

The purpose of this ordinance is to modify certain provisions to the Borough's Land Use Regulations.

*Chapter XXX (Land Use Regulations) of the General Ordinances of the Borough of Monmouth Beach is hereby amended or supplemented as follows (new text is underlined, text to be deleted is ~~struck through~~ and notations to the reader and changes in subparagraph designations either with or without changes to content are italicized):*

**SECTION 1.**

Existing definition for "Accessory Use or Building" in Section 30-2.3, entitled "Definitions," is hereby amended as follows:

**ACCESSORY USE, ~~OR~~ BUILDING, OR STRUCTURE**

A subordinate use, ~~or building, or structure~~, the purpose of which is incidental to that of a main use, ~~or building, or structure~~ on the same lot, except that any building or structure with a floor area in excess of ~~700~~ 900 square feet or a building or structure containing living space shall never be considered an accessory ~~building~~ (See Section 30-5.8).

**SECTION 2.**

Existing definition for "Building Height" in Section 30-2.3, entitled "Definitions," is hereby amended as follows: (

**BUILDING HEIGHT**

The vertical distance as measured by the crown of the road of the improved street on which it fronts at the mid-point of the lot. The building height shall not exceed 35 feet except in those instances where structures, in areas of special flood hazard, have the lowest floor 36 inches above the ~~advisory base flood elevation~~ Base Flood Elevation as defined in Chapter 22. In those instances, the maximum building height may be increased by three feet.

**SECTION 3.**

The definition of “Lot Coverage” that is provided within existing Section 30-2.3, entitled “Definitions,” is hereby repealed and replaced, as follows:

#### LOT COVERAGE

The area of a lot covered by buildings and structures, as expressed as a percentage of the total lot area. The total lot coverage shall be inclusive of all pervious and impervious structures and surfaces but shall be exclusive of:

- a. The water surface area of a swimming pool.
- b. Areas with grass or other vegetative cover that are used for landscaping.
- c. Decks that are: 1) located above grade; 2) have grass or other vegetative cover or organic mulch or other pervious material under their surface; 3) have gaps between decking; and 4) comply with all setback requirements applicable to principal buildings within the prevailing zone district unless otherwise exempted by this ordinance. Decks constructed of interlocked planks shall be considered as an impervious surface.
- d. Areas covered by gravel or loose stone that are not located within driveways, sidewalks, or similar walkways.
- e. Elevated air conditioner condensers and other mechanical equipment that are: 1) mounted on the building; 2) do not project more than four feet from the building; and 3) have grass or other vegetative cover under the units or platforms.
- f. Platforms associated with air-conditioner condensers or generators that are: 1) located above grade; 2) have grass or other vegetative cover or organic mulch material under their surface; 3) have gaps between decking or other material forming the surface upon which air-conditioner condensers or generators are mounted; and 4) comply with all setback requirements applicable to principal buildings within the prevailing zone district unless otherwise exempted by this ordinance.

#### **SECTION 4.**

Existing Section 30-5.5, entitled “Yard Areas, Building Orientation and Fenestration,” is hereby amended as follows:

30-5.5 — Yard Areas, Building Orientation and Fenestration.

- A. No yard or other open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other buildings, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.
- B. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located, except as otherwise provided in this chapter and that for purposes of swimming pools and accessory buildings the yard upon which the principal building faces shall be considered the front yard and the yard to the rear of the principal building shall be considered a rear yard. For the purpose of calculating the average front setback of dwellings 200 feet on either side, the yard upon which the existing principal building faces shall be considered the front yard and the yard to the rear of the existing principal dwelling shall be considered a rear yard. For the purposes of calculating the average front setback of dwellings 200 feet on either side, per Section 30-11.4 Appendix C, the yard upon which the existing principal building faces shall be considered the front yard and the yard to the rear of the existing principal building shall be considered a rear yard.
- C. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the ordinary projections allowed by the State Uniform Construction Code including, but not limited to, sills, belt courses, chimneys, flues, buttresses, ornamental features, and eaves, provided, however, that none of the aforesaid projections shall project into the minimum required yards more than 24 inches, unless otherwise permitted by this chapter.
- D. The minimum side yard setback provided in the Schedule of Limitations in Appendix B to Chapter 30 for properties in all zoning districts shall be increased by five feet where the side yard of the property in question abuts the back yard of an adjoining property except where the property in question is a corner lot.
- E. Each exterior face of a single-family dwelling shall include windows. The fenestrated portion of each elevation of a principal single-family dwelling building shall not be less than 4% of the area of the building face.
- F. Roofed, open-sided or unroofed porches, decks, patios, outside showers, air-conditioner condensers (including associated platforms), generators (including associated platforms) or similar structures attached to, or within five feet of, a principal building shall conform to the yard requirements for the principal building except:
  - 1. Roofed, unheated, open-sided porches (on the ground or first floor) may extend up to five feet into the required front yard setback or up to three feet into the required side yard setback.

2. Unroofed stoops or steps may extend up to ~~three~~ six feet into any required yard, provided the total area of such elements may not exceed 100 square feet.
  3. Where the structure has no roof and does not extend more than one foot above grade, it shall conform to the yard requirements for an accessory structure.
  4. Air-conditioner condensers or generators, and platforms associated therewith, may extend up to six feet into the required rear or side yard setback when said structures are fully conformant with the requirements of Subsection 30-8.24.
- G. Any building facade with a height (or eave height) exceeding one-half the maximum height permitted and having a length in a single plane (or substantially parallel planes less than 18 inches apart) exceeding 35 feet shall maintain a setback two feet greater than the minimum required setback for the applicable zone district.
- H. Intrusion into the required setback (yard) shall be measured from the face of the building foundation wall and be limited to:
1. Up to 24 inches for chimneys, fireplaces, rain leaders, drains, and any other utility service component;
  2. Up to 24 inches for bay windows and similar elements, provided that the area of any wall elevation occupied by such elements does not exceed the greater of 8% of the total area of the wall elevation or 50 square feet;
  3. Up to ~~36~~ 48 inches for eaves, soffits or other roof elements (excluding gutters);
  4. Up to 48 inches for unroofed stoops or for steps, subject to Subsection 30-5.5F; and
  5. Up to 12 inches for any other element of the building.
  6. Within all areas of special flood hazards as set forth in Subsection 22-3.2, Basis for establishing areas of special flood hazard, or in Subsection 22-4.3b, use of other base flood data, unroofed landings, stoops and stairs may be permitted to extend up to 10 feet beyond the front set back line of a residential zone.
- I. Attached garages shall be set back from the face of the dwelling at least 18 inches.

- J. Existing air-conditioner condensers located in a front, side, or rear setback may be replaced within the footprint of an existing air-conditioner condenser. The number of new air-conditioner condensers shall be equal or less than the number of existing air-conditioner condensers. This exemption shall not apply if an addition, or new dwelling, is proposed for the property in question.

## SECTION 5.

Existing Section 30-5.8, entitled “Accessory Building and/or Structures,” is hereby amended as follows:

30-5.8. — Accessory ~~Building~~ Buildings and/or Structures.

Unless otherwise specified in this chapter, accessory buildings and/or structures shall conform to the following regulations as to their locations on the lot.

- A. An accessory building attached to a principal building shall comply in all aspects with the yard requirements of this chapter for the principal building. Detached accessory buildings shall be located in other than a front yard, and if located in a side or rear yard area, shall be set back at least five feet from all lot lines, except that storage sheds containing less than 100 square feet of floor area may be located not less than three feet from any side or rear lot line.
- B. Accessory ~~building~~ buildings shall not occupy more than 35% of a required rear or side yard or a maximum of ~~700~~ combined building coverage of 1,200 square feet, with any one accessory building not to exceed 900 square feet. ~~Such An~~ accessory building shall not exceed 18 feet in height.
- C. No detached accessory structure in any residential zone shall be less than five feet from the principal building.
- D. If garage space is provided within or attached to a residence, vehicular entrances thereto shall be limited to not more than four garage doors provided that no more than three garage doors shall face a public street. Further, the surface area of all garage doors facing any one public street shall not exceed 243 square feet in total. In addition, the maximum total surface area for all garage doors on a property shall not exceed 324 square feet. No garage door shall exceed nine feet in height.
- E. For single-family residential uses in any zone districts, the minimum size of a one car attached or detached garage shall be ~~260~~ 300 square feet. That portion of the floor area of detached garages, equal to the lesser of 50% of the garage floor area or ~~130~~ 150 square feet, shall not be considered in determining building and lot coverage.
- F. Accessory buildings prior to principal building. Notwithstanding any other provisions of this chapter, no building permit shall be issued for the construction

of an accessory building prior to the issuance of a building permit for the construction of the main building upon the same premises. If construction of the main building does not precede or take place at the same time within the construction of the accessory building, the Administrative Officer shall have cause to revoke the building permit for the principal and the accessory building.

- G. Small wind energy systems and/or solar energy systems shall comply with Section 30-5.32 of this chapter.
- H. Swimming pools:
  - 1. Commercial or private club swimming pools shall conform with Section 30-8.8 of this chapter.
  - 2. Private swimming pools shall conform with Section 30-8.22 of this chapter.

## **SECTION 6.**

Existing Section 30-5.14, entitled “Riparian Grants,” is hereby repealed and replaced in its entirety as follows:

### 30-5.14 — Riparian Lands, Riparian Grants, and Other Water-Flowed or Water-Covered Portions of Private Property, Etc.

- A. Land that is under water or otherwise lowland of the mean high-water line (MHWL) as depicted on the most recently available Tidelands Mapping published by the New Jersey Department of Environmental Protection (NJDEP), and which land comes into common ownership with an adjacent upland parcel via riparian grant from the State of New Jersey or via other lawful means, shall be zoned the same as the adjacent upland parcel.
- B. Notwithstanding anything to the contrary set forth herein, however, any land area that is under water or otherwise lowland of the mean high water line (MHWL) as depicted on the most recently available Tidelands Mapping published by the New Jersey Department of Environmental Protection (NJDEP) at the time of a particular application, and which land area is not otherwise filled, graded and stabilized pursuant to valid permits, shall not be included in the calculation of lot area.

## **SECTION 7.**

Existing Section 30-5.22, entitled “Storage of Commercial Vehicles,” is hereby repealed and replaced in its entirety as follows:

### 30-5.22 — Storage of Commercial Vehicles.

- A. No more than one commercially registered vehicle shall be parked or stored between the hours of 7:00 p.m. and 7:00 a.m. on any occupied property that is primarily used for residential purposes, or on any vacant property in a residentially zoned area, as well as along public and private rights-of-way located adjacent to, or within 500 feet of, said property types. The following additional provisions shall apply:
1. Commercially registered vehicles with a gross vehicle weight rating (GVWR) of more than 23,500 pounds or 11.75 tons shall be prohibited.
  2. Commercially registered vehicles commonly known as “box,” “dump,” “grain body,” “tanker,” “tractor trailer cabs,” “walk-in,” or “rack and stake” trucks shall be prohibited.
  3. Commercially registered vehicles commonly known as “tractors” or vehicles that may otherwise be classified as construction or earth-moving equipment shall be prohibited.
  4. Commercially registered vehicles with seating capacity for more than ten (10) passengers shall be prohibited, with the exception of school buses and vans with seating capacity for up to 16 passengers.
  5. Commercially registered vehicles commonly known as “heavy-duty pickups” shall have either an open or enclosed bed and shall not have racks or stakes.
  6. Commercially registered vehicles that have permanent or temporary sleeping or food preparation facilities shall be prohibited.
  7. Commercially registered vehicles shall not be parked on a grassed area, lawn area or an otherwise landscaped area.
  8. Commercially registered vehicles shall not obstruct any pedestrian or vehicular traffic and be no closer than five (5) feet from a side or rear property line.
  9. To the extent feasible, commercially registered vehicles shall be screened by a combination of fencing and/or landscaping to provide year-round screening.
  10. To the extent feasible, commercially registered vehicles shall be parked in a side or rear yard.

11. The outside storage of any materials or equipment, including but not limited to trailers, associated with commercially registered vehicles shall be prohibited.

## **SECTION 8.**

Existing Section 30-8.17.H is hereby amended to as follows:

- H. Driveways. All structures must be accessible by means of a paved driveway. The paved driveway must be not less than 10 feet wide and must have a center line grade of not less than 0.5% and not greater than 10%. For one and two-family dwellings a stabilized base with an optional type of finish stone may be used in lieu of pavement provided however, that the apron of such driveway shall be constructed of reinforced concrete and comply with the requirements of Section [30-8.26D](#). For all non-single-family uses, driveways must provide turnarounds to eliminate the necessity of any vehicle backing onto any street. ~~No private driveway in any zone shall be located nearer to any side or rear lot line than five feet.~~

## **SECTION 9.**

Existing Section 30-8.21.O is hereby amended to as follows:

- O. Minimum off-street parking spaces required.
  1. Automotive gasoline station mini mart. One parking space for each 200 square feet of gross floor area.
  - ~~1~~ 2. Automotive repair garage or body shop. One parking space for each 400 square feet of gross floor area.
  - ~~2~~ 3. Automotive sales and service. One parking space for each 400 square feet of gross floor area shall be provided for customer and employee parking. These areas shall be in addition to areas utilized for display and storage of vehicles. Site plans shall specify which parking spaces are designated for customers, employees, display and storage.
  - ~~3~~ 4. Automotive service station. Five parking spaces for each service bay, exclusive of vehicle service area. In no instance shall there be less than five off-street parking spaces.
  - ~~4~~ 5. Banks, Savings and Loan Associations and Similar Financial Institutions. One parking space for each 200 square feet of gross floor area.



- ~~5~~ 6. Bar, cocktail lounge, nightclub, including restaurants with bars. One parking space for each 50 square feet of gross floor area.
- ~~6~~ 7. Barber and beauty shop. Three parking spaces for each chair (if known), but not less than one parking space per 200 square feet of gross floor area.
- ~~7~~ 8. Business offices. One parking space for each 150 square feet of gross floor area.
- ~~8~~ 9. Community Center, Library, Museum, Art Gallery. One parking space for each 200 square feet of gross floor area.
- ~~9~~ 10. Community Club, Private Club, Lodge. One parking space for each 100 square feet of gross floor area, plus 1.5 spaces for each boat slip where applicable.
- ~~10~~ 11. Meeting rooms, assembly or Exhibition Hall. One parking space for each 50 square feet of gross floor area.
- ~~11~~ 12. Dwellings. Two parking spaces for each single-family dwelling, one of which shall be enclosed. Two parking spaces for each unit in multiple-family dwellings.
- ~~12~~ 13. Dental or Medical Office. One parking space for each 100 square feet of gross floor area, except that if located within a building housing three or more separate, unassociated practitioners the requirement shall be one parking space for each 150 square feet of gross floor area.
- ~~13~~ 14. Government Office. To be determined by the Planning Board, except that governmental offices within privately owned buildings shall provide a minimum of one parking space for each 150 square feet of gross floor area.
- ~~14~~ 15. Hardware, auto supply stores. One parking space for each 400 square feet of gross floor area.
- ~~15~~ 16. Laundromats or similar coin-operated cleaning. One parking space for each 200 square feet of gross floor area.
- ~~16~~ 17. Marina, boat yard, boat sales. One and one-half parking spaces for each boat slip. Where no boat slips exist, one space for each 300 square feet of gross floor area.
- ~~17~~ 18. Nursery school, day camp or similar uses. One parking space for each 500 square feet of gross floor area.

- ~~18~~ 19. Professional office. One parking space for each 150 square feet of gross floor area.
- ~~19~~ 20. Public and private utilities, electrical substation, gas regulator, water works, pumping station and similar facilities. To be determined by the Planning Board based on the specific need of the use.
- ~~20~~ 21. Restaurant, cafe, diner. One parking space for each 50 square feet of gross floor area.
- ~~21~~ 22. Recreation facilities. Those not specifically mentioned herein shall be determined by the Planning Board.
- ~~22~~ 23. Retail stores, except otherwise specified. One parking space for each 150 feet of gross floor area.
- ~~23~~ 24. Studio. Art, music, dance, gymnastics and similar for the purpose of giving instruction rather than shows or exhibitions. One parking space for each 100 square feet of gross floor area.
- ~~24~~ 25. Schools.
- a. Elementary. One parking space for each eight students based on design capacity.
- ~~25~~ 26. Warehouse, wholesale, machinery or large equipment sales. One parking space for each 1,500 square feet of gross floor area, plus one parking space for each vehicle used in connection with the business.

## **SECTION 10.**

Existing Section 30-8.24 is hereby amended to as follows:

30-8.24 — Screening and noise control of equipment or machinery.

- A. When the effective operation of a building or structure, or equipment within a building or structure, necessitates placing machinery, motors, generators or similar devices for cooling, heating, or generating purposes, outside or on top of any structure, they shall be screened from public view and adjacent residential properties. Said screening may consist of the following:
1. Densely planted evergreen shrubs, which shall grow to not less than five feet after one growing season, and

2. A solid and uniform fence at least five feet in height on four sides of said equipment, or
  3. A masonry wall at least five feet in height on four sides of said equipment, or
  4. Extensions of parapet walls or mansard roof lines or structural or ornamental screens or baffles, or
  5. Decorative lattice, which shall be at least five feet in height on four sides of said equipment and be designed to be easily removable without tools so as to facilitate access to equipment or machinery for maintenance purposes, or
  56. Any similar type of solid or uniform screening, which will prevent exposure of such equipment to public view.
- B. The above requirements shall not be construed to prevent an opening in any required screening for maintenance purposes. However, any such opening shall be made as inconspicuous as is possible so as not to prevent any unsightly display of said equipment to public view or adjacent residential properties.
- C. When machinery, motors, generators or similar devices for cooling, heating, or generating purposes are placed outside or on top of any structure, the sound levels associated with such equipment shall not exceed the maximum permissible sound levels as outlined in Section 3-1.7 of the Borough Ordinance. When the normal operation of such equipment would exceed the allowable maximum at the property line, noise control devices and strategies shall be applied to reduce the noise levels to a designed allowable maximum at the property line. Appropriate means of noise control include but are not limited to: acoustic barriers; acoustic insulation; inlet and outlet air attenuation baffles; isolation mounts; and exhaust silencers. Noise control devices may be designed to be integrated with screening measures required by Subsection 30-8.24(A).

## **SECTION 11.**

Existing Section 30-8.27, entitled "Signs," is hereby amended as follows:

30-8.27 — Signs.

A. General provisions.

1. All signs shall conform to the structural requirements of the New Jersey Uniform Construction Code as adopted by the Borough of Monmouth Beach.

2. All signs to be erected, inscribed, installed, replaced or altered shall require a sign permit except permitted signs for private residences, permitted window signs and temporary signs, ~~and~~ name plate signs not exceeding two square feet in size, and permitted A-frame sandwich board signs in full conformance with the provisions of this ordinance. Application for such sign permit shall be made in the same manner as applications for building permits for the erection or construction of buildings.
3. The maximum height for free standing or projecting signs, unless otherwise provided, shall not exceed 12 feet above ground level.
4. All signs shall be located within the building line of the property, unless otherwise specifically provided.
5. No permanent marquees or canopies shall extend over a required front yard or over a public walk.
6. Official signs erected by the Borough, County, State or Federal Government shall be permitted in all districts.
7. One freestanding sign for identification shall be permitted for schools, churches, hospitals or similar institutions, and for permitted clubs and lodges, provided that the area shall not exceed 25 square feet on each side, or wall signs may be erected not to exceed 25 square feet in total area.
8. Flood lights associated with signage shall not be located more than 12 feet above ground level and shall be so placed and shielded as to prevent any glare or blinding effect upon any lane of moving traffic.
9. No sign shall be located in such a manner as to materially impede: ~~the view of any street or intersection.~~
  - a. The view of any street or intersection.
  - b. The free flow of traffic along any street, intersection or point of ingress/egress to a site.
  - c. Free Pedestrian access along any sidewalk, walkway or point of ingress/egress to a site, building or structure.
10. No signs except window or special event signs shall be placed on private or public property except for the purpose of identifying a use or uses actually conducted upon the premises upon which such signs are erected and for no other purpose.

11. Signs placed in windows are permitted subject to the following provisions: ~~Except for "For Rent" and "For Sale" signs, any temporary sign or other advertising material glued or otherwise attached to a window or otherwise exposed to public view shall be removed at the expiration of the event of sale for which it was erected or posted, whichever shall have occurred sooner.~~

~~Not more than 20% of the square footage of any single window or single window display area shall be devoted to signs or other advertising material attached thereto or otherwise exposed to public view.~~

- a. Not more than 20% of the square footage of any single window or single window display area shall be devoted to signs or other advertising material attached thereto or otherwise exposed to public view.
- b. Any temporary sign or other advertising material glued or otherwise attached to a window or otherwise exposed to public view shall be removed at the expiration of the sale or event for which it was erected or posted.

12. The bottom of all projecting signs must be at least eight feet above ground level, but shall not be above the first floor ceiling line. The top of projecting signs shall not extend above the eaves of the roof. Projecting signs shall be at right angles to the building and the outermost point of the sign shall not be more than five feet from the side of the building.

B. Maintenance. If the Construction Official shall find that any sign is unsafe, insecure or in need of repair, or is not maintained in proper painted condition, the Construction Official shall notify the Zoning Officer of such finding and the Zoning Officer shall give written notice to the permittee thereof. If the permittee fails to repair or remove it within 30 days after such notice, such sign may be removed in order to comply, by the Construction Official at the expense of the permittee or owner of property on which it is located. The Zoning Officer shall consult with the Construction Official in the application of these provisions and the determination of structural deficiencies.

C. Prohibited signs.

1. No rotating beam of illumination or flashing illumination shall be used in connection with any sign.
2. Signs with any lighting or control mechanism which may cause radio or television interference.

3. Any sign so erected, constructed or maintained as to obstruct or be attached to any fire escape, door or opening used as means of egress or ingress, or for ~~fire-fighting~~ firefighting purposes, or placed so as to interfere with any opening for ventilation required by law.
4. Signs utilizing the colors red or green in their illuminations when the signs are placed within 50 feet of a street intersection.
5. Any sign which is of such a form, character or shape as to confuse or dangerously distract the attention of a motor vehicle.
6. Any advertisement that uses a series of two or more signs or units, placed in a line parallel to the street, or in similar fashion, all carrying a single advertising message, part of which is contained on each sign.
7. Signs which in any way simulate official, directional or warning signs erected or maintained by the State of New Jersey, Monmouth County or Borough, or by any railroad, or public utility or similar agency concerned with the protection of the public health or safety.
8. Pennants, multi-color streamers or banners or trading stamps, except during a ten-day period following the commencement of business by a new owner or tenant.
9. Signs which rotate or move or which have rotating or moving parts.
10. Signs which are above the parapet of a building.
11. Signs which are attached to utility poles or trees.
12. Signs which advertise that real estate has been sold or rented.

D. Permitted signs in residential zones.

1. One sign bearing the name and/or street number of the principal occupant of a private residence, and trespassing signs, or signs indicating the private nature of a driveway or premises, provided that the area on one side of any such sign shall not exceed two square feet, shall not exceed four feet in height above ground level, shall not be artificially lighted and shall be situated within the property lines of the premises it identifies.
2. One non-illuminated, temporary sign advertising the prospective sale or rental of the premises upon which it is maintained, provided that the area on one side of any such sign shall not exceed three square feet, shall not exceed four feet in height above ground level and that it shall be removed within 30 days after consummation of a lease or sale transaction and

further provided that the words "For Sale" or "For Rent" or similar words must be the largest wording on the sign.

3. One free standing sign for each major subdivision, provided such sign shall not exceed 20 square feet in area on each side and shall not exceed eight feet in height. Any sign remaining in the area after all work on the subdivision is completed shall not exceed four square feet on each side and shall not exceed eight feet in height above ground level.
4. No more than one permanent sign per lot shall be permitted, unless otherwise specified, for each use permitted in this zone.
5. Apartments shall be allowed one sign identifying the apartment. Apartments having access drives from more than one street shall be permitted one sign per street. Such signs shall not exceed 50 square feet in area.
6. In Zones A-2 and A-3 all other permitted uses may have one internally lighted or unlighted sign not to exceed 20 square feet in area.

E. Permitted signs in business zones.

1. Each commercial use may have a wall sign on the front of the building, not exceeding a total of 10% of the front building face area, including all doors and windows, but excluding the roof, ~~and not exceeding 30 or 100~~ square feet in area, whichever is less.
2. Each commercial use may have one unlighted projecting sign not exceeding 18 x 30 inches.
3. The overall sign area of all signs shall not exceed 15% of the front building face area, including all doors and windows.
4. Where a commercial structure is located at the intersection of two streets, or a street and a parking lot, an additional wall sign may be erected or inscribed, upon the side wall, provided that such wall sign does not exceed 5% of the face area of the front of the building.
5. Where the rear of a commercial structure adjoins a parking area or public access to a street, a wall sign not exceeding 10 square feet may be erected or inscribed, provided total sign area of the premises does not exceed 15% of the building face area of the front of the building. However, where a public entrance exists at the rear of a commercial structure, a wall sign not exceeding two square feet and stating the name of the premises only may be erected or inscribed, which shall not be counted toward the 15% limitation imposed in this subsection.

6. ~~One temporary sign advertising the sale or rental of real estate on which it is located shall be permitted, provided that the area on any one side of such sign shall not exceed an area of 25 square feet.~~

One non-illuminated, temporary sign advertising the prospective sale or rental of the premises upon which it is maintained, provided that the area on one side of any such sign shall not exceed 25 square feet and that it shall be removed within 30 days after consummation of a lease or sale transaction and further provided that the words "For Sale" or "For Rent" or similar words must be the largest wording on the sign.

7. Directional signs may be permitted on the premises, however, no such sign shall exceed six square feet in area.
8. One externally illuminated freestanding sign shall be permitted for each commercial property/lot in a business zone provided that such sign shall not exceed 25 square feet in area or eight feet in height and such sign shall be located no closer than five feet to any side property line. No freestanding sign shall be located with or obstruct any public right-of-way.
9. No freestanding sign shall be erected, installed or maintained nearer than 50 feet from the boundary of any residential zone unless such freestanding sign is of a size and type permissible in a residential zone and unless the illumination, if any, of such sign is from within and of such intensity and so directed as not to cause a nuisance to adjacent residential property owners.
10. Awning signs containing only the name of the business, logo, and street number, restricted to the drop-leaf or fringe of the awning may be permitted. No portion of an awning, other than the drop-leaf or fringe, may be used as a sign.
11. One A-frame or sandwich board sign subject to the following conditions:
  - a. The sign shall have a maximum width of 30 inches, maximum height of 42 inches and maximum depth of 20 inches.
  - b. The sign shall be weighted at the bottom so as to prevent unintended movement and render it impervious to the effects of strong winds.
  - c. The sign shall be stored inside during inclement weather.
  - d. The sign shall be stored inside when the business it is associated with is closed.



- e. The sign shall have no electrical or electronic components and shall not be illuminated.
- f. The sign shall contain no advertisement for products or services that are not offered on the premises.
- g. The sign shall be located no closer than 10 feet to any side yard property boundary, provided, however, that in the case of a property having a frontage of less than 20 feet, the sign shall be located as close to the center of the frontage as practicable.
- h. The sign shall be further located within four (4) feet of either the curb face or the front of the building, provided further, however, that a forty-eight (48) inch wide unobstructed path shall be maintained at all times on the sidewalk it is located upon.
- i. The sign shall be constructed of weather resistant materials and shall not be permitted to weather, fade, peel, crack or otherwise deteriorate.

12. One illuminated or electronic sign affixed to the inside of a first-floor window or visible from a first-floor window, subject to the following conditions:

- a. The sign shall have a maximum area of one-third of the total area of the window with which it is associated or 10 square feet, whichever is less.
- b. The sign shall not be operated when the business with which it is associated is closed.
- c. The sign shall contain no advertisement for products or services that are not offered on the premises.
- d. The sign shall not be visible from a residential property, residential unit on a mixed-use property, or from a residential zone.
- e. The sign shall contain no flashing objects, moving pictures or other animation.
- f. The sign may be of the channel-lit variety or consist of a digital LCD panel, LED panel or similar technology.

- g. Signs consisting of digital LCD panels, LED panels or similar technology shall have a pixel pitch (i.e., the distance between the centers of adjacent pixels) of 2.5 millimeters or less.
- h. Signs consisting of digital LCD panels, LED panels or similar technology shall be equipped with an automatic brightness control sensor or similar technology to cause screen brightness to automatically increase or decrease according to time of day.
- i. Signs consisting of digital LCD panels, LED panels or similar technology shall be operated at a maximum brightness of: 2,500 nits between sunrise and sunset; and 500 nits between sunset and sunrise.

44 13. Gasoline service stations may display the following signs:

- a. One freestanding or pylon sign advertising the name of the station and for the principal products sold on the premises including any special company or X-brand name insignia or emblem provided that such sign shall not exceed 35 square feet in area on a side and shall be hung within the property line not less than 10 feet or more than 20 feet above the ground.
- b. One temporary sign located inside the property line and specifically advertising special seasonal servicing of automobiles providing that said sign does not exceed seven square feet in area and remains in place for no more than 90 days.
- c. Directional signs or lettering displayed over individual entrance doors or bays, consisting only of the words "washing," "lubrication," "repairs," "mechanic on duty" or other words closely similar in import provided that there shall be no more than one such sign over each entrance or bay. The letters thereof shall not exceed 12 inches in height, and the total of each sign shall not exceed six square feet.
- d. Customary lettering or other insignia which are a structural part of a gasoline pump, consisting only of the brand name of a gasoline sold, lead warning sign, a price indicator, and any other sign required by law, and not exceeding a total of three square feet on each pump.

F. Special events signs.

1. Civic groups or service organizations may erect a temporary sign prior to a special event provided that permission for the special event is granted by the Board of Commissioners Borough.
2. Any business, industrial or professional user shall be allowed to erect for a special event advertising material which does not conform to the requirements of Sections 30-8.27A,11; 30-8.27C,8; 30-8.27E, 1,2,3 and 4 for a continuous period not to exceed 14 days during each calendar year, which right shall be noncumulative. No Borough approval of the temporary signs for a special event shall be required but each user shall give prior notice to the Administrative Officer as to the dates on which the temporary signs will be erected and removed.

G. Penalties.

1. In addition to actions for specific performance requiring the removal of any non-permitted sign, the Borough of Monmouth Beach may file a complaint in the Municipal Court of the Borough of Monmouth Beach. Penalties for a violation of this section shall be a fine of not less than \$50 nor more than \$1,500 for each day the non-permitted sign remains. Notwithstanding any other provision of the "Land Use and Development Regulations" there shall be no requirement of advance notice prior to issuance of a Municipal Court Complaint.

## **SECTION 12.**

Article 9, entitled "Conditional Uses," of Chapter 30, entitled "Land Use and Development Regulations," is hereby amended to include new Section 30-9.10, entitled Automotive Gasoline Station Mini Marts, as follows:

30-9.10 — Automotive Gasoline Station Mini Mart.

Automotive Gasoline Station Mini Marts shall only be permitted as a conditional use in the B-2 (Business — Special) Zone District in accordance with the following standards:

- A. An automotive gasoline station mini mart shall have frontage on NJ Route 36 and Riverdale Avenue.
- B. Minimum principal building setback from adjacent properties: 100 feet.
- C. Minimum landscaped buffer to adjacent properties: 25 feet.
- D. The site shall be screened by a six-foot-high board-on-board or vinyl fence on all sides not fronting on a public right-of-way. This fence shall not extend into the required sight triangle for any access drive onsite, or on adjacent sites. This fence may be incorporated into a required landscaped buffer.

- E. Parking shall conform to the requirements of Section 30-8.21.
- F. A solid waste enclosure area shall be provided. The enclosed area shall be so designed that solid waste shall not be seen from a public street or from adjoining property.
- G. Waste receptacles for use by the public shall be provided adjacent to parking areas.
- H. Outdoor storage of merchandise shall be prohibited.
- I. Drive-through windows shall be prohibited.
- J. The sale, rental or storage of cars, trucks, trailers, boats or any other vehicles shall be prohibited.
- K. Maintenance and service of cars, trucks, trailers, boats or any other vehicles shall be prohibited.

### **SECTION 13.**

Existing Section 30-10.16 is hereby amended to as follows:

30-10.16 — Mandatory affordable housing development fees.

- A. Purpose. The purpose of the mandatory affordable housing development fee regulations is to provide revenues with which to fund rehabilitation of housing units in Monmouth Beach occupied by low- and moderate-income households, to construct housing for low- and moderate-income families in the Borough and/or to fund other programs for low- and moderate-income housing in order for the Borough of Monmouth Beach to meet its responsibility for providing affordable housing pursuant to Mount Laurel II and the Fair Housing Act. The funds collected pursuant to this subsection shall be used exclusively for the production of low- and moderate-income housing and to offset municipal expenses in developing and administering the program(s) under which low- and moderate-income housing shall be produced to meet the fair share need to the Borough. No funds shall be expended except as permitted by N.J.A.C. 5:93-8.15 or other approval of the Court. The purpose of these provisions is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules as interpreted by the Court. This section shall be interpreted within the framework of COAH's rules on development fees as interpreted by the Court.
- B. Affordable housing development fees collected shall be used for the sole purpose of providing low- and moderate-income housing. In *Holmdel Builder's Assn. v. Holmdel Borough*, 121 N.J. 550 (1990), the New Jersey Supreme Court

determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., and the State Constitution subject to the New Jersey Council on Affordable Housing development rules as interpreted by the Court.

- C. Affordable housing development fees shall be paid by all developers other than developers of exempt developments and affordable inclusionary housing developments and shall consist of monies paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules as interpreted by the Court.
- D. Fees based on equalized assessed value. Fees shall be based on the equalized assessed value which shall be the value of a property determined by the Borough Tax Assessor through a process designed to ensure that all property in the Borough is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Borough Tax Assessor.
  - 1. Residential development.
    - a. Residential fees. Within applicable residential zoning districts of the Borough of Monmouth Beach, developers shall pay a development fee of 1.5% of the equalized assessed value of any residential development provided no increase in density is permitted.
    - b. Fee for "d" variance. If a variance is granted pursuant to N.J.S.A. 40:55D-70d ("d" variance) then the additional residential units realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6.0% rather than the development fee of 1.5%. However, if the zoning on a site has changed during the two-year period, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two years preceding the filing of the "d" variance application.
  - 2. Nonresidential fees.
    - a. Within applicable zoning districts of the Borough of Monmouth Beach, developers shall pay a fee of 2.5% of equalized assessed value for nonresidential development.
    - b. If a "d" variance is granted, then the additional floor area ratio (FAR) realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of 6.0% rather than the

development fee of 2.5%. However, if the rezoning on a site has changed during the two- year period, the base FAR for the purposes of calculating the bonus development fees shall be the highest permitted by right during the two years preceding the filing of the "d" variance application.

E. Eligible exaction, ineligible exaction and exemptions.

1. Development fees may be collected for the following types of development:
  - a. New and existing commercial, office, industrial or other nonresidential structure that is expanded or undergoes a more intense use. The development fee that may be collected shall be calculated on the increase in the equalized assessed value of the improved structure.
  - b. New residential structures and conversions of existing residential structures to increase the number of housing units within the structure.
2. The Borough shall not reduce densities from pre-existing levels and then require developers to pay development fees in exchange for an increased density.
3. Developments that have received preliminary or final approval prior to the imposition of a development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.
4. Developers that convert any portion of an existing residential structure to a nonresidential use shall pay a development fee. The development fee shall be based on the increase in the equalized assessed value of the converted structure.
5. The Borough exempts the following types of development from the imposition of development fees:
  - a. Nonprofit organizations which have received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Borough Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges.
  - b. Federal, State, County and local governments.

- c. Public utilities under the jurisdiction of the New Jersey Board of Public Utilities to the extent that the construction for which approval is sought is of a facility which shall house equipment only and not to be occupied by any employees.
- d. Developers of low and moderate income housing units provided that the required minimum percentage of residential units in the development are affordable units in accordance with applicable COAH regulations establishing minimum set-asides for low and moderate sales and rental housing.
- e. Where affordable housing units are required to be constructed and where the developer has been authorized to pay a development fee in lieu of building the affordable housing units, developers shall pay a fee equal to the cost of subsidizing the affordable housing units that are not built.
- f. Public uses.
- g. Public uses including public educational and cultural facilities and outdoor and indoor recreational facilities.
- h. Residential and nonresidential construction permits. A residential construction permit which involves construction costs of \$50,000 or less and nonresidential construction permits which involve construction costs of \$20,000 or less shall be exempt from paying development fees.
- i. New residential construction to replace a residential structure destroyed by fire or natural hazards, provided that said construction does not increase the floor area or density of the previously existing structure. If an increase in floor area or density is proposed, development fees shall be calculated in accordance with § 30-10.16D(1) above.
- j. New nonresidential construction to replace a nonresidential structure destroyed by fire or natural hazards, provided that said construction does not increase the floor area or development intensity of the previously existing structure. If an increase in floor area or development intensity is proposed, development fees shall be calculated in accordance with § 30-10.16D(2) above.
- jk. Exemptions as listed in N.J.S.A. 40:55D-8.4.

#### **SECTION 14.**

Page 1 of the “Schedule of Limitations” that is provided in Appendix C of Chapter 30, entitled “Land Use and Development Regulations,” is hereby amended to add “Public buildings and uses” to the principal permitted uses of the following zone districts: A (Single-Family Residential); A-1 (Single-Family Residential); A-2 (High Rise Residential); A-3 (Apartment/Townhouse Residential); and, B-2 (Business — Special).

#### **SECTION 15.**

Page 2 of the “Schedule of Limitations” that is provided in Appendix C of Chapter 30, entitled “Land Use and Development Regulations,” is hereby amended to add “Automotive Gasoline Station Mini Mart” to the uses permitted as conditional uses in the B-2 (Business — Special) Zone District.

#### **SECTION 16.**

Page 3 of the “Schedule of Limitations” that is provided in Appendix C of Chapter 30, entitled “Land Use and Development Regulations,” is hereby amended to replace all instances of the following language in row entitled “Maximum Lot Coverage by Building:

~~The total lot coverage, inclusive of the buildings but exclusive of the water surface areas of pools,~~ shall not exceed 40% of the lot area.

#### **SECTION 17.**

The zoning of Block 52, lots 11 and 11.01 through 11.15, which are situated along Meredith Court and comprise the condominium development commonly known as “Monmouth Commons,” is hereby amended from B-2 (Business — Special) to A-3 (Apartment/Townhouse Residential). Please note, however, that the zoning of the portion of Block 52, Lot 11 that has frontage on Riverdale Avenue and exists to the south of adjacent Block 52, Lot 10 shall remain unchanged and, thereby, continue to be zoned A-1 (Single-Family Residential), which is consistent with adjacent properties to the north and south. Attachment A depicts the extent of this proposed zoning amendment.

#### **SECTION 18.**

The current extent of the B (Business — Retail) is hereby amended as depicted in Attachment B. This amendment recognizes the existence of residential properties and results in the rezoning of the following properties from B (Business — Retail) to A-1 (Single-Family Residential):

From B (Business — Retail) to A-1 (Single-Family Residential)

- Block 45, Lot 19;
- Block 45, Lot 20;
- Block 45, Lot 21.01;
- Block 45, Lot 22;

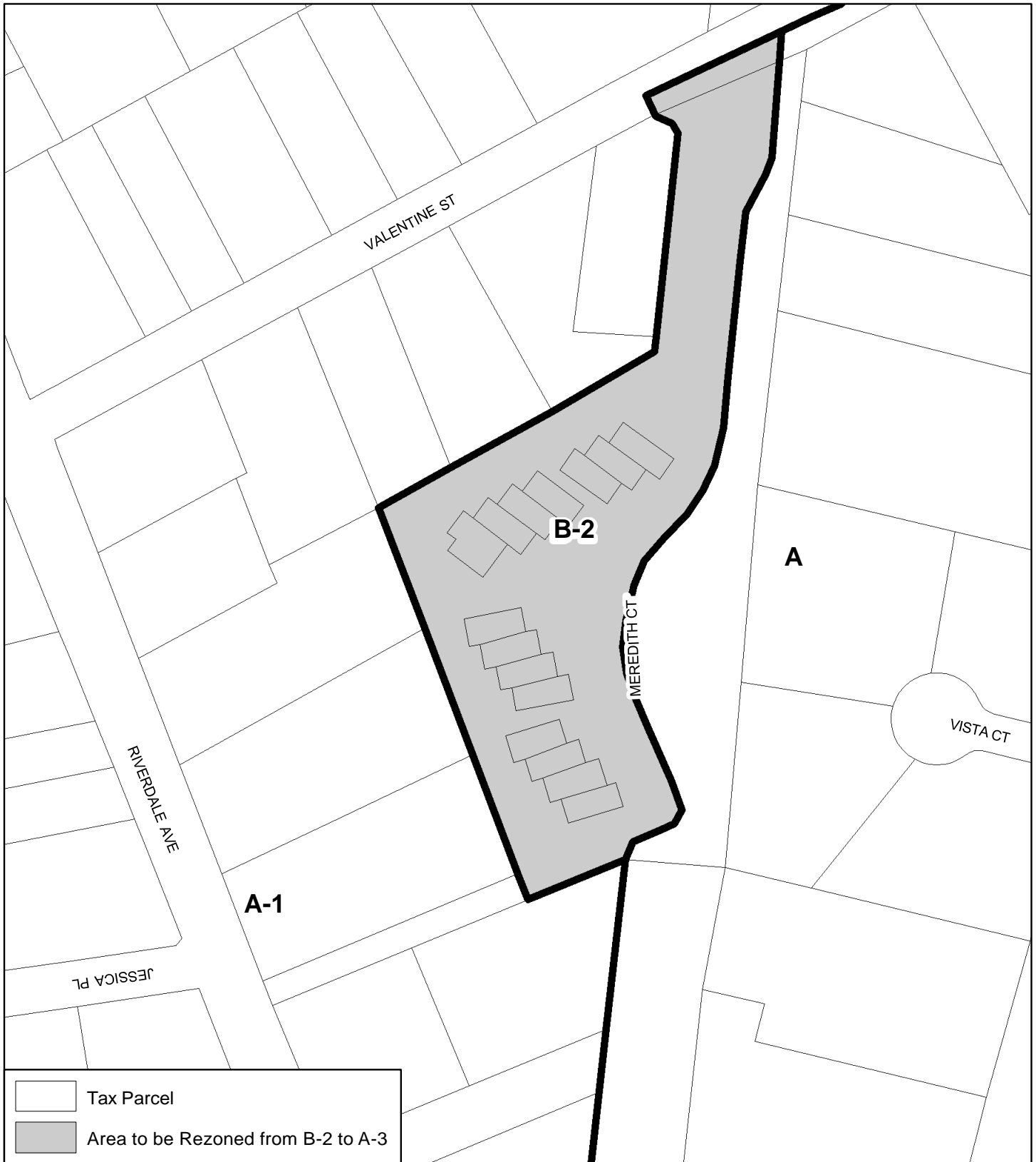


- Block 45, Lot 24;
- Block 45, Lot 25.01;
- Block 45, Lot 34;
- Block 45, Lot 35;
- Block 45, Lot 36;
- Block 45, Lot 38.01; and,
- Block 45, Lot 38.02.

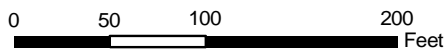
#### **SECTION 19.**

The official Zoning Map of the Borough of Monmouth Beach is hereby amended to include the Affordable Housing Overlay Zone that is delineated in Section 30-10.20, entitled “Affordable Housing Overlay Zone.” Attachment C depicts the extent of the “Affordable Housing Overlay Zone.”

ATTACHMENT A



T&M Associates  
 11 Tindall Road  
 Middletown, NJ 07748  
 Phone: 732-671-6400



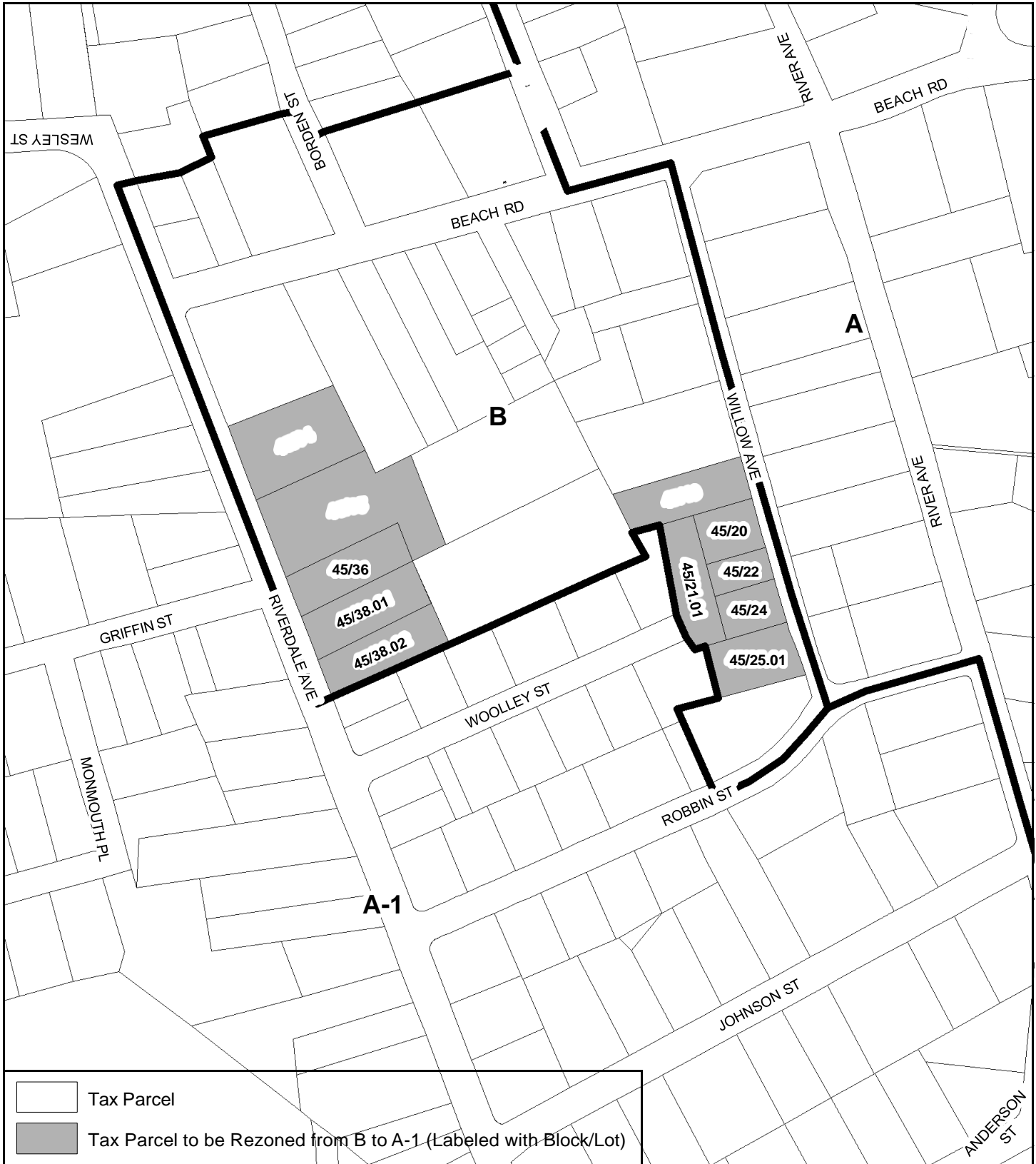
**Attachment A**

**Area to be Rezoned from B-2 Zone to A-3 Zone**  
**Monmouth Beach Borough, Monmouth County, New Jersey**

Prepared by: RED, 3/1/2022  
 Source: NJDEP; NJDOT; Monmouth County; T&M Associates  
 G:\Projects\MBCH\01657\GIS\Projects\Mapping\Attachment A.mxd

*NOTE: This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not State-authorized.*

ATTACHMENT B



	Tax Parcel
	Tax Parcel to be Rezoned from B to A-1 (Labeled with Block/Lot)



T&M Associates  
 11 Tindall Road  
 Middletown, NJ 07748  
 Phone: 732-671-6400

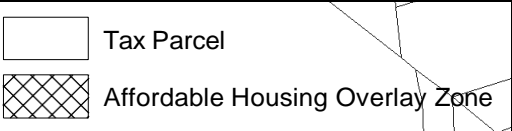
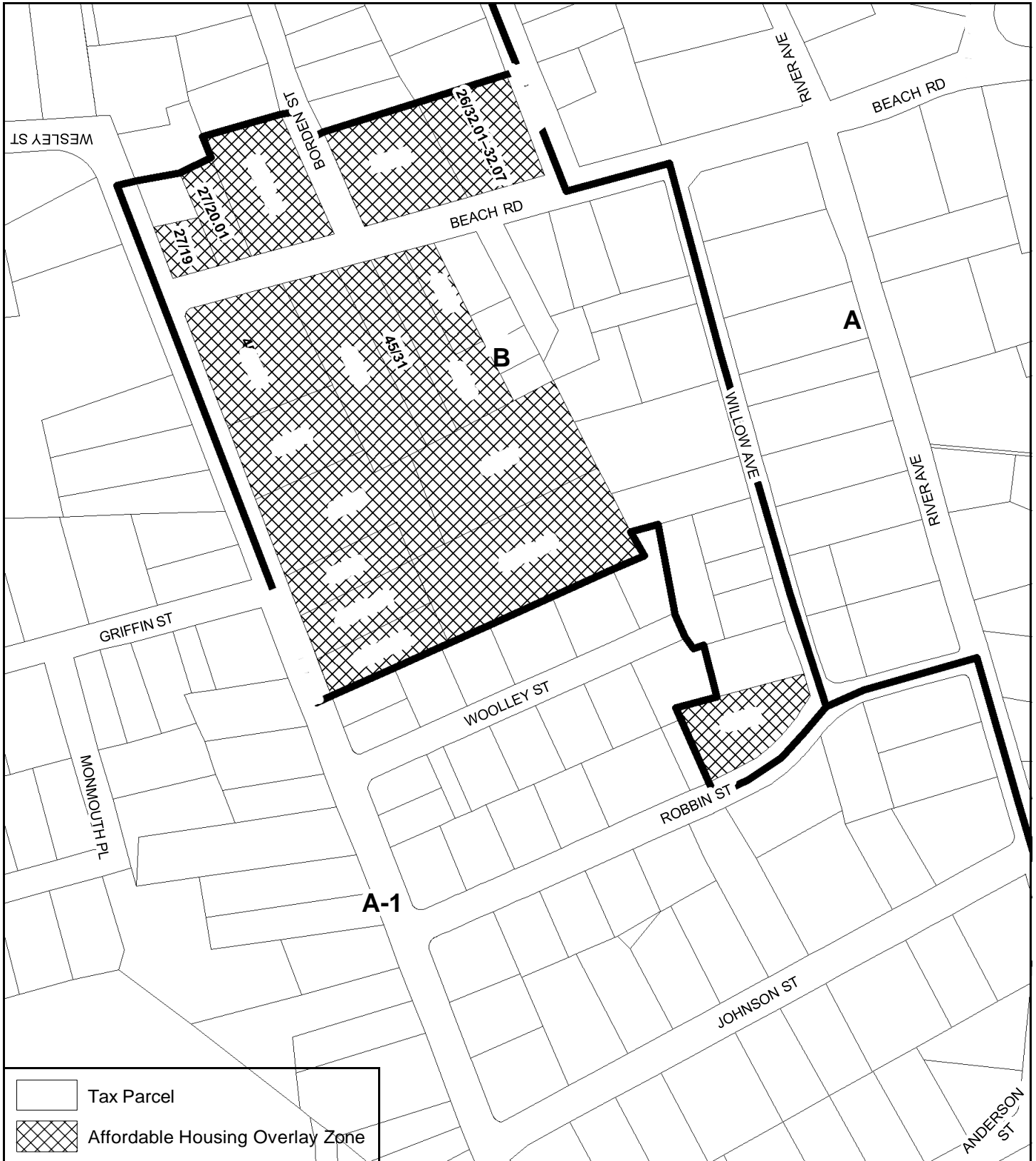
0 100 200 400 Feet

**Attachment B**  
**Tax Parcels to be Rezoned from B Zone to A-1 Zone**  
**Monmouth Beach Borough, Monmouth County, New Jersey**

Prepared by: RED, 3/2/2023  
 Source: NJDEP; NJDOT; Monmouth County; T&M Associates  
 G:\Projects\MBCH\01657\GIS\Projects\Mapping\Attachment B.mxd

*NOTE: This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not State-authorized.*

ATTACHMENT C



T&M Associates  
 11 Tindall Road  
 Middletown, NJ 07748  
 Phone: 732-671-6400

## Attachment C

### Affordable Housing Overlay Zone

### Monmouth Beach Borough, Monmouth County, New Jersey

Prepared by: RED, 3/2/2023  
 Source: NJDEP; NJDOT; Monmouth County; T&M Associates  
 G:\Projects\MBCH\01657\GIS\Projects\Mapping\Attachment C.mxd

*NOTE: This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not State-authorized.*

## **SECTION 20**

All other Sections not specifically modified herein shall remain in full force and effect.

## **SECTION 21**

If any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

## **SECTION 22**

The Borough Clerk is hereby directed, upon adoption of the Ordinance after public hearing thereon, to publish notice of the passage thereof and to file a copy of this Ordinance as finally adopted with the Monmouth County Planning Board as required by N.J.S.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. 40:49-2.1.

## **SECTION 23**

This Ordinance shall take effect immediately upon final passage and publication according to law and filing with the Monmouth County Planning Board.

INTRODUCED: August 15, 2023

ADOPTED: September 19, 2023

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Joyce Escalante, Borough Clerk