

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2022-15**

AN ORDINANCE AMENDING CHAPTER 30: "LAND USE AND DEVELOPMENT REGULATIONS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO AMEND THE DEFINITIONS AND PROVISIONS ASSOCIATED WITH RESTAURANT USES AND TO CLEARLY PROHIBIT CERTAIN TYPES OF RESTAURANTS AND WAREHOUSES AND WHOLESALE/FULFILLMENT STORAGE USES

WHEREAS, for many years, the residents and community of the Borough of Fair Haven (the "Borough") have been engaged and concerned about the development of the Borough's business district and the Borough's implementation of planning objectives to enhance and ensure the business district's compatibility with adjacent residential neighborhoods; and

WHEREAS, dating back to the 1970's, the protection and preservation of residents' quality of life in residential neighborhoods adjacent to the Borough's business district has been a paramount concern for the Borough, particularly as related to the intensity of uses within the business district, as well as the traffic generated thereby in such a residential area; and

WHEREAS, in 1972, to address the Fair Haven community's concerns regarding the intensification of traffic in the Borough's business district by new drive-through uses, the Borough adopted Ordinance B-95, which excluded drive-through and quick-serve restaurants from the Borough's business district; and

WHEREAS, thereafter, the Borough's Ordinance B-95 was challenged via lawsuit in the matter of *McDonald's v. Borough of Fair Haven*, wherein the Court ruled in December 1972 that, although the Borough's Ordinance B-95 was impermissibly vague in its terminology, "the essence of zoning is to provide a balanced and well-ordered scheme essential for the general welfare of the community and that consideration could be given to physical, economic and social aspects", especially since the "zoning was to serve the general welfare and that it was of no moment if a private interest simultaneously benefited or was restricted"; and

WHEREAS, following the Court's December 1972 ruling, the Borough adopted Ordinance B-99 in accordance therewith, specifically prohibiting intense and traffic-generating uses, such as diners, lunch wagons, road stands, drive-ins, and fast-food uses, within the Borough's business district to protect residents' quality of life in adjacent residential neighborhoods; and

WHEREAS, on December 26, 1978, the Borough again amended its zoning ordinances in response to the Fair Haven community's concerns about development of the Borough's business district, and thereunder, specifically and unequivocally prohibited "fast food establishment[s] designed for over the counter service of quickly prepared or pre-prepared foods whether or not interior seating facilities are provided" under then-Borough Code Section 15-3.9; and

WHEREAS, the specific prohibition of “fast food establishments” within the business district under Borough Code Section 15-3.9 remained within the Borough’s zoning regulations for nearly twenty years until the adoption of Ordinance B-417 on December 14, 1998; and

WHEREAS, the Borough’s Ordinance B-417, effective December 14, 1998, removed the specific prohibition of “fast food establishments” from Borough Code Section 15-3.9, and instead, listed and defined “categories” of restaurants under new Borough Code Section 30-2.4, seeking to functionally describe the same prohibition of drive-through and quick-serve restaurants within the Borough’s business district adjacent to quiet residential neighborhoods; and

WHEREAS, despite the revisions to the Borough’s zoning regulations as to restaurant uses under Ordinance B-417 in 1998, the Borough’s concerns about intense and traffic-generating uses within its business district continued to remain the same since the 1970’s; and

WHEREAS, since the adoption of Ordinance B-417 in 1998, the Fair Haven community’s concerns regarding restaurant uses within the Borough’s business district have been consistently discussed and addressed during the Borough’s Master Plan Reexaminations; and

WHEREAS, the Borough’s 2005 Master Plan Reexamination Report identifies that traffic safety is an outstanding issue within the Borough’s business district, and further recommends that planning objectives be implemented to enhance the business district’s “compatibility with adjacent residential neighborhoods”; and

WHEREAS, the 2005 Master Plan Reexamination Report further expresses that “[t]he Borough has concern with the future of the B-1 Business District” and “foresees a need to improve the district for reasons of traffic safety, compatibility with adjoining residential zones, enhancing the community image, and for developing or redeveloping new uses that would be beneficial to the Borough”; and

WHEREAS, the 2005 Master Plan Reexamination Report recommends that “[w]ith respect to the edges of the B-1 district, adjoining single family residential zone districts, buffer and screening requirements should be set to better protect the residential neighborhoods from the impact of commercial use and operation during the night, lighting, traffic movements, visual impact and related planning concerns”; and

WHEREAS, the 2005 Master Plan Reexamination Report specifically notes that “[t]he character of the business district and the design of commercial buildings is an issue” because “[t]he image projected by the business district is not uniform, its visual environment is variable, and the circulation system is not pedestrian friendly” insofar as “[p]edestrian and vehicle movements between commercial sites in the B-1 district can be difficult and conflicting”; and

WHEREAS, with respect to the Borough’s business district overall, the 2005 Master Plan Reexamination Report recommended that it be improved and redeveloped as the “Main Street” of the Fair Haven community for commercial and civic activities, while noting that, in order to do so, the Borough must “[p]lan for and make improvements that support a safe, convenient, and efficient circulation pattern for pedestrians and bicyclists”; and

WHEREAS, in response to issues raised by the 2005 Master Plan Reexamination Report, the Borough adopted a myriad of ordinances revising its zoning regulations to address the scope of development and compatibility of uses within the Borough, including Ordinance 9-26-05E, effective October 24, 2005, which increased the rear yard setback required for properties in the business district that are adjacent to residential properties; and

WHEREAS, a decade later, the Borough’s 2016 Master Plan Reexamination Report continued to identify issues and concerns within the Borough’s business district that detrimentally affected residents’ quality of life in adjacent residential neighborhoods; and

WHEREAS, the Borough’s 2016 Master Plan Reexamination Report restudied and determined that traffic safety remained a major issue within the Borough’s business district, and again, recommended the implementation of planning objectives to enhance the business district’s “compatibility with adjacent residential neighborhoods”; and

WHEREAS, the Borough’s 2016 Master Plan Reexamination Report incorporated a resident and business owner survey conducted in October 2015, wherein respondents were asked to identify uses or activities they “would like to see in the business district that are not currently there”, to which most respondents identified “small retail or restaurant uses such as a pharmacy, bakery, sit down restaurants, and an ice cream shop” and “more than 60% of respondents stated they were not in favor of allowing drive-through businesses in the business district”; and

WHEREAS, the Borough’s 2016 Master Plan Reexamination Report specifically noted that “[a]lthough the Borough has increased the buffer widths to 30 feet, the need for protection of the neighborhoods adjacent to the B-1 District, with respect to negative impacts from non-residential uses, persists”; and

WHEREAS, the Borough’s 2016 Master Plan Reexamination Report further noted that “[c]oncerns regarding vehicular traffic and integration of bicycle and pedestrian movements within the streets continue to be relevant” and included “connectivity between the business district and the adjacent neighborhoods and the need for traffic calming … remains valid”; and

WHEREAS, the Borough’s 2016 Master Plan Reexamination Report recommended parking regulation improvements within the Borough’s business district, including “shared parking arrangements and linking parking areas together to make more efficient use of the limited space within the business district”; and

WHEREAS, the Borough’s 2017 Active Transportation Plan echoed the concerns of the 2016 Master Plan Reexamination Report, and identified six (6) recent vehicular incidents along River Road – three involving pedestrians and three involving bicyclists, in which one of the bicyclists and one of the pedestrians were tragically and fatally injured on separate occasions; and

WHEREAS, the Borough’s 2017 Active Transportation Plan noted that Fair Haven is a small, 1.5 square-mile, predominantly residential community, with no highway access and only local routes for truck, vehicular, cyclist, and pedestrian transportation; and

WHEREAS, the Borough's 2017 Active Transportation Plan likewise noted that the Borough's Master Plan calls for traffic calming measures, and that Fair Haven has committed to safe routes to school, as well as being a complete streets community; and

WHEREAS, in response to the transportation and safety concerns raised by the Borough, Monmouth County and the New Jersey Department of Transportation introduced traffic calming measures and reduced the speed limit to 25 MPH on River Road; and

WHEREAS, in September 2019, after certain applications pending before the Fair Haven Planning Board and Zoning Board of Adjustment again highlighted the Fair Haven community's concerns regarding intense and traffic-generating uses, such as diners, lunch wagons, road stands, drive-ins, and fast-food uses, within the Borough's business district, the Borough established a Restaurant Committee (the "Committee") to study and recommend legislation and/or administrative action(s) to address the zoning regulations attendant to such uses within the Borough; and

WHEREAS, following intensive work and community engagement, and despite the COVID-19 pandemic, the Committee dutifully completed its work and presented its findings and recommendations to the Borough's Mayor & Council on May 9, 2022, which findings again echoed the issues and concerns raised by the Borough's litigation and ordinances circa 1970's, its 2005 and 2016 Master Plan Reexamination Reports, as well as its 2017 Active Transportation Plan and the objections raised before the Borough's municipal land use boards in September 2019; and

WHEREAS, the Committee found that the Borough's business districts are limited in size and scope and are surrounded by heavily developed residential areas, and further concluded that commercial users are generators of high traffic, litter, and noise, and those that tend to be open for business over extended hours on a daily basis are inconsistent with adjacent residential neighborhoods within the Borough; and

WHEREAS, the Committee determined that fast-food restaurants are generally limited or uniform in design, often requiring substantial parking areas and significant site lighting, all of which have an adverse impact upon the aesthetics of the site and surrounding environment; and

WHEREAS, *inter alia*, the Committee recommended ordinance revisions to replace and clarify certain definitions and provisions within the Borough Code relating to permitted and prohibited restaurant uses within the Borough;

NOW, THEREFORE, BE IT ORDAINED that the Mayor & Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey hereby extend their sincere appreciation and gratitude to all of the Restaurant Committee members, as well as the Borough's administration, for their hard work on this matter of significant community importance; and

BE IT FURTHER ORDAINED that the Mayor & Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey hereby accept the recommendations of the Restaurant Committee, and implement the Committee's recommended ordinance revisions as follows:

SECTION 1. Subsection 30-2.4 entitled “Definitions” of Section 30-2 entitled “Definitions” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby supplemented and amended to include the following definitions (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *

§ 30-2 DEFINITIONS.

* * *

§ 30-2.4 Definitions.

DRIVE-IN RESTAURANT

An establishment or business essentially designed so that food is both served to and consumed by patrons while they are parked in vehicles on the premises (regardless of whether or not seating may also be provided at the premises).

DRIVE-THROUGH WINDOW

A Drive-Through Window is a window or portal through which patrons may pick up food or beverage orders from an establishment without exiting their vehicle.

RESTAURANT

An establishment or business where food and/or beverages are prepared and served or dispensed to patrons and consumed at the establishment and/or taken out and/or delivered for off-premises consumption; but expressly excluding from this definition, however, the following: (a) Fast-Food Restaurants, which is a separately defined use; and (b) Drive-In Restaurants, which is a separately defined use. Further, no Restaurant may contain a Drive-Through Window.

FAST-FOOD RESTAURANT

An establishment or business, which is essentially designed to quickly prepare, package, and dispense to customers for quick or ready consumption, a limited, uniform, or standardized variety of food and beverage products, and where the menu and/or practices of such an establishment or business are generally prescribed by contractual, franchise, or other such agreements, to facilitate rapid service and turnover of customers. Such establishments or businesses may or may not have tables, and the food and beverage products may be sold for consumption inside the building and/or on or off the premises.

RESTAURANT, DRIVE-IN; see, DRIVE-IN RESTAURANT

RESTAURANT, FAST-FOOD; see, FAST-FOOD RESTAURANT

SECTION 2. The following existing definitions contained in Subsection 30-2.4 entitled “Definitions” of Section 30-2 entitled “Definitions” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven are hereby deleted in their entirety (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *

§ 30-2 DEFINITIONS.

* * *

§ 30-2.4 Definitions.

DRIVE-IN RESTAURANT

The same as “restaurant, drive in.”

RESTAURANT

~~Any establishment, however designated, at which food is sold for consumption on the premises, normally to patrons seated within an enclosed building. However, a snack bar at a public or community playground, playfield, park, or swimming pool operated solely by the agency or group operating the recreation facilities, and for the convenience of patrons of the facility, shall not be deemed to be a restaurant.~~

RESTAURANT, CATEGORY ONE; CATEGORY ONE RESTAURANT

~~A restaurant which is designed for and whose primary function and operation is the preparation and service by employees of meals to a customer or customers seated at the table at which the meal is consumed. A category one restaurant operates without substantial carry out service; with no delivery service; with no drive thru, drive-in or service in vehicles; and without service at counters or bars unless the restaurant is licensed to serve alcoholic beverages.~~

RESTAURANT, CATEGORY THREE; CATEGORY THREE RESTAURANT

~~A restaurant whose primary function is the preparation and service by employees of food or drink to customers as part of an operation which may be designed with carry out service; delivery service; self service; on-premises consumption; or customer pick-up service utilizing a vehicular drive thru.~~

RESTAURANT, CATEGORY TWO; CATEGORY TWO RESTAURANT

~~A restaurant whose primary function is the preparation and service by employees of food or drink to customers as part of an operation which may be designed with carry out service; delivery service; self service; or on-premises consumption, except that no drive-in, drive thru, or service in vehicles is permitted.~~

RESTAURANT, DRIVE-IN; DRIVE-IN RESTAURANT

~~An establishment where the majority of the patrons purchase food, soft drinks, ice cream, and similar confections for takeout or consumption on the premises but outside the confines of the principal building, or in automobiles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons.~~

SECTION 3. Subsection 30-5.3 entitled "Permitted and Prohibited Uses" of Section 30-5 entitled "Zoning District Regulations" of Chapter 30 entitled "Land Use and Development Regulations" of the Revised General Ordinances of the Borough of Fair Haven is hereby revised and amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: "LAND USE AND DEVELOPMENT REGULATIONS"

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§ 30-5 ZONING DISTRICT REGULATIONS.

* * *

§ 30-5.3 Permitted and Prohibited Uses.

- a. Permitted principal uses, accessory uses, and conditional uses within each zone district are set forth in the schedules of permitted uses. The letter "P" means that the use is a permitted principal use in the zone. The letter "C" means the use is a permitted conditional use. The letter "A" means permitted accessory use in the zone. Any use, except for essential services, which is not specifically listed as a permitted use, an accessory use or a conditional use on the schedule of uses shall be deemed a prohibited use.
 1. For a portion of Block 45, Lots 10 and 12 in the R-5 Zone, the only permitted use is a 100% affordable housing development consistent with the following parameters:
 - (a) One two-family dwelling consisting of affordable residential units with a minimum lot area of 5,000 square feet. A "two-family dwelling" is defined as a building occupied or intended for occupancy as separate living quarters for no more than two families, with separate access, cooking, sleeping and sanitary facilities for the exclusive use of the occupants of each unit, which units are separated from each other either by vertical walls to the underside of the roof or by horizontal floors.
 - (b) All bulk, design, and other applicable standards in the R-5 Zone shall apply.
 - (c) One unit shall be an affordable for-sale family unit and one unit shall be a very-low-income rental unit as that term is defined in the Fair Housing Act.
 - (d) Affordable housing units shall be subject to the standards in the Borough's Affordable Housing Ordinance.
- b. Prohibited uses shall include but not be limited to the following:
 1. All billboards, signboards, advertising signs and devices not expressly related to the business being conducted on the premises or otherwise specifically permitted by this section.

2. Camping sites, trailer camps, trailer courts or trailer coaches used as dwellings, offices or storage facilities or commercial activities related to the outdoor storage or display of trailer coaches, except that during development construction trailers may be permitted specifically limited as to the extent of time such use and requiring the payment of an annual fee to the municipality for the granting of such license for such use.
3. Auction markets.
4. Junk yards, automobile wrecking yards or disassembly yards, or the sorting or baling of scrap metal, paper, rags, or other scrap or waste material, except for recycling operations operated by or with the approval of the Borough.
5. Privately operated dumps for the disposal of garbage, trash, refuse, junk, or other such material.
6. Adult book stores.
7. Peep shows.
8. Massage parlors as defined in Section 30-2 of this chapter.
9. Amusement arcade.
10. Explosive storage, except small arms ammunition, or by special permit, where explosives are to be used on the premises.
11. Incineration, reduction, storage or dumping of slaughterhouse refuse, rancid fats, garbage, or dead animals.\
12. Slaughtering and slaughterhouses for fowl or animals.
13. Any use of any building or premises in such a manner that the health, morals, safety or general welfare of the community may be endangered.
14. Keeping or raising of pigs, sheep, horses, donkeys, mules, cattle, goats, chickens, and other such livestock, unless a waiver is obtained in accordance with the provisions of subsection 5-18.4 of these Revised General Ordinances.
15. Asphalt plants, concrete plants, asphalt batching plants, concrete batching plants, asphalt mixing plants, concrete mixing plants, asphalt manufacturing plants, concrete manufacturing plants.
16. Auto, horse or dog racetracks.

17. Keeping or raising of mink, fox or similar fur bearing animals.
18. Open air drive-in motion picture theaters.
19. Seasonal resort cottages.
20. Any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, vibration, smoke, glare or waste products.
21. The use of boats or vehicles as residential dwellings.
22. ~~Restaurants, category three~~Fast-Food Restaurants, Drive-In Restaurants, and Drive-Through Windows, as defined in Section 30-2 of this chapter.
23. Heliports, helistops or aviation field.
24. The operation of Cannabis Cultivators, Cannabis Distributors, Cannabis Manufacturers, Cannabis Wholesalers, Cannabis Retailers, Cannabis Delivery Services.
25. Warehouses and wholesale/fulfillment storage facilities.

SECTION 4. Attachment 2 entitled “Schedule of Permitted Uses – Nonresidential Districts” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

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30 Attachment 2

Table B (Subsection 30-5.1) SCHEDULE OF PERMITTED USES—NONRESIDENTIAL DISTRICTS

P = Permitted Use

C = Conditional Use

A = Accessory Use

Type of Use	B-1	B-2	PB
Residential			
Single-family detached dwelling(I)*	P	P	
Retail/Service/Office			
Restaurant, category one	P	P	
Restaurant, <u>category two</u>	P	P	

Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following:	P	P	
(i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalks area provided the Zoning Office is notified in writing at least ten (10) days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks.			
(ii) Motor vehicle sales			
(iii) Lumberyards			
(iv) Auction markets			
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning dropoff/pick-up shops; self-service laundromats; tailor shops; weight loss centers; portrait studios; interior decorating services; personal fitness centers; and mail centers.	P	P	
Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication and administrative services.	P	P	
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry and watches. Motor vehicle body shops shall not be permitted.	P	P	
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services.	P	P	
Banks, including drive-in facilities	P	P	
Professional offices	P	P	
Churches and places of worship	C	C	
Indoor athletic, exercise, or recreation facilities	P	P	P
Motor vehicle service stations and public garage	C		
Motor Vehicle repair garage	C		
Funeral homes	P	P	
Child care center	P	P	P
Public/Quasi-Public			
Municipal facilities operated by the Borough, volunteer fire house, first aid station	P	P	P
Municipal parks and recreation	P	P	P

Public utilities/local utilities			C
Post office	P	P	P
Public library	P	P	P
Other			
Mixed use residential	C	C	
Private garages (See subsection 30-7.26)	A	A	A
Signs (See subsection 30-7.24)	A	A	A
Fences and walls (See subsection 30-7.25)	A	A	A
Off-street parking ⁽¹⁾	A	A	A
Loading and unloading areas ⁽²⁾	A	A	A
Essential services	A	A	A
Wireless telecommunications facilities			P

SECTION 5. Attachment 7 entitled “Schedule of Permitted Uses – Affordable Housing (AH) District” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

* * *

30 Attachment 7

Borough of Fair Haven Table AH (Subsection 30-5.1) Schedule of Permitted Uses - Affordable Housing (AH) District

P = Permitted Use

C = Conditional Use

A = Accessory Use

NP = Not Permitted

Type of Use	AH Zone
Mixed-use residential with required commercial on the ground floor	P
Restaurant, <u>category one</u>	P
Restaurant, <u>category two</u>	P
Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following:	P
(i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalks area provided the Zoning Office is notified in writing at least 10 days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks	NP
(ii) Motor vehicle sales	NP

(iii) Lumberyards	NP
(iv) Auction markets	NP
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning drop-off/pick-up shops; self-service	P
Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication, and administrative services	P
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry, and watches. Motor vehicle body shops shall not be permitted	P
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services	P
Banks, with no drive-through services	P
Professional offices	P
Indoor athletic, exercise, or recreation facilities	P
Childcare center	P
Drive thru uses	NP
Type of Use	AH Zone
Other Uses Incidental and Accessory to the Principal Permitted Use	
Seasonal Outdoor Café and/or Outdoor Dining subject to § 4-2 of the Borough Code	A
Private garages	NP
Home occupations	NP
Drive-through services	NP
Signs (pursuant to § 30-7.24 of the Borough Code)	A
Fences and walls	A
Off-street parking	A
Loading and unloading areas	A
Essential services	A

SECTION 6. Attachment 8 entitled “Schedule of Permitted Uses – Affordable Housing Overlay Districts” of Chapter 30 entitled “Land Use and Development Regulations” of the Revised General Ordinances of the Borough of Fair Haven is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

CHAPTER 30: “LAND USE AND DEVELOPMENT REGULATIONS”

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30 Attachment 8

Borough of Fair Haven Table AHO (Subsection 30-5.1)

Schedule of Permitted Uses- Affordable Housing Overlay Districts

P = Permitted Use

C = Conditional Use

A = Accessory Use

NP = Not Permitted

Type of Use	AHO-1 Zone	AHO-2 Zone	AHO-3 Zone	AHO-4 Zone	AHO-5 Zone
Residential/Mixed-Use					
Mixed-use residential with required commercial on the ground floor (1)(2)	P	P	P	P	NP
Inclusionary multifamily residential	NP	P	NP	NP	NP
Inclusionary age-restricted residential consisting of market-rate townhouses and affordable townhouses or apartment flats, provided the exterior design of the apartment flats is consistent with the design of the townhouses. “Townhouses” are defined as a one-family dwelling in a row of units in which each unit has its own front and rear access to the outside, no unit is located over another units and each unit is separated from any other unit by one or more common fire-resistant walls.	NP	NP	NP	NP	P(4)
Inclusionary residential consisting of market- rate townhouses and affordable townhouses or apartment flats, provided the exterior design of the apartment flats is consistent with the design of the townhouses, as defined above.	NP	NP	NP	NP	P(3)(4)
Retail/Service/Office					
Restaurant, category one	P	P	P	P	NP
Restaurant, category two	P	P	P	P	NP

Retail sale or rental of goods, merchandise, or equipment, art galleries, artist studios, except for the following:	P	P	P	P	NP
(i) Uses requiring storage or display of goods outside a fully enclosed building, except that this shall not be construed to prohibit temporary sidewalk sales or other temporary special promotional events utilizing a sidewalk area provided the Zoning office is notified in writing at least 10 days in advance of such sale or event; that there is adequate provision for the safe and convenient circulation of pedestrians; and further provided that there are no sales of goods from trucks.	P	P	P	P	NP
(ii) Motor vehicle sales	NP	NP	NP	NP	NP
(iii) Lumberyards	NP	NP	NP	NP	NP
(iv) Auction markets	NP	NP	NP	NP	NP
Personal service establishments, having as their primary function the rendering of service to a client within a building. Such services may include, but are not limited to, barber and beauty shops; dry cleaning drop-off/pick-up shops; self-service	P	P	P	P	NP
Business service establishments, having as their primary function the rendering of a service to a business client. Such services may include, but not be limited to, document reproduction, duplication, and administrative services.	P	P	P	P	NP
Product service establishments, having as their primary function the servicing or repair of a product, including, but not limited to, the repair or servicing of shoes, audio and visual equipment, appliances, jewelry, and watches. Motor vehicle body shops shall not be permitted	P	P	P	P	NP
Business offices whose operations are designed to attract and service customers or clients on the premises, including, but not limited to, insurance agents; travel agencies; realtor; finance companies; and tax preparation services.	P	P	P	P	NP

Banks, with no drive-through services	P	P	P	P	NP
Professional offices	P	P	P	P	NP
Indoor athletic, exercise, or recreation facilities	P	P	P	P	NP
Childcare center	P	P	P	P	NP
Public/Quasi-Public					
Municipal facilities operated by the Borough, volunteer fire house, first aid station	P	P	P	P	NP
Municipal parks and recreation	P	P	P	P	NP
Post Office	P	P	P	P	NP
Public Library	P	P	P	P	NP
Other Uses Incidental and Accessory to the Principal Permitted Use					
Private garages (pursuant to § 30-7.25)	NP	NP	NP	NP	A
Home occupations	NP	NP	NP	NP	NP
Drive-through services	NP	NP	NP	NP	NP
Signs (pursuant to the applicable Zone standards)	A	A	A	A	A
Fences and walls (pursuant to the applicable Zone standards)	A	A	A	A	A
Off-street parking	A	A	A	A	A
Loading and unloading areas	A	A	A	A	A
Essential services	A	A	A	A	A
Private swimming pools	NP	NP	NP	NP	A
Shed	NP	NP	NP	NP	A

SECTION 7. The purpose of this Ordinance is to dispel any ambiguity or confusion within the Borough Code as to permitted and prohibited restaurant uses within the Borough going forward, regardless of whether any such ambiguity or confusion arose from prior legislation, codification, litigation, or determination or ruling of a court or other tribunal.

SECTION 8. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 9. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Fair Haven, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Fair Haven are ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 10. After introduction, the Borough Clerk is directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Fair Haven for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Mayor & Council, within 35 days after referral, a report including identification of any provisions in this ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter the Board deems appropriate.

SECTION 11. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

Introduced: September 19, 2022

Adopted:

Attest:

Allyson M. Cinquegrana, RMC/CMR
Borough Clerk

Approve:

Joshua Halpern
Mayor