

## **Borough of Highlands Public Notice**

Please take notice that the following ordinance was introduced and passed upon first reading at a meeting of the Governing Body of the Borough of Highlands, in the County of Monmouth, State of New Jersey, on March 7, 2012. Notice is hereby given that the following ordinance will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Council Chambers of the Municipal Building, 171 Bay Avenue, Highlands, NJ 07732, on Wednesday, April 4, 2012 at 8:00 PM. At that time, the public is invited to participate in the discussion of the Ordinance. Copies of the Ordinance are available in the Municipal Clerk's Office located at 171 Bay Avenue, Highlands, NJ and are posted on the Display Board at the Municipal Building. Copies are available at no charge to the general public.

### **Ordinance No.0-12-10**

#### **AN ORDINANCE OF THE BOROUGH OF HIGHLANDS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 21 ENTITLED "ZONING AND LAND USE REGULATIONS" TO MODIFY USES IN THE B-1, B-2, WC-2, R-1.03 AND MXD ZONE DISTRICTS**

**WHEREAS**, the Economic Development Committee of the Highlands Business Partnership (HBP) submitted on June 9, 2011 a comprehensive list of recommendations to the Highlands Mayor and Council addressing proposed changes in the Borough zoning to further business revitalization of the downtown and other areas of the Borough; and,

**WHEREAS**, the Highlands Mayor and Council authorized the Highlands Planning Board on June 9, 2011 to undertake a review of the potential zoning changes recommended by the Highlands Business Partnership; and,

**WHEREAS**, the Highlands Planning Board, after several special meetings devoted to discussion of the various topics and with public comment, submitted a report to the Mayor and Council dated September 8, 2011

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Council of the Borough of Highlands after review of the Planning Board report, does hereby amend and supplement Chapter 21 entitled Zoning and Land Use Regulations of the Borough of Highlands as follows:

#### **Section 1**

Section 21-8 (Definitions) is hereby supplemented to add the following definition:

**“ESSENTIAL SERVICES** - Underground gas, electrical, telephone, telegraph, water transmission or distribution systems, including mains, drains, sewers, pipes, conduits and cables; and including normal aboveground appurtenances, such as fire alarm boxes, police call boxes, light standards, poles, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.”

## **Section 2**

§ 21- 74 (Prohibited Uses) is hereby amended and supplemented to add the following (additions are noted by underline; deletions are noted with a strikeover):

21-74 Prohibited Uses.

Those uses not specifically permitted in a zone district are prohibited. Additionally, the following uses are specifically prohibited: adult entertainment, arcades, pool halls, any accessory use within an establishment with a liquor license designed for use by minors, auctions or sales conducted outside a structure except when a private home is being cleaned or vacated or for the raising of funds for charitable institutions and done not more than twice a year nor for more than two (2) days duration, short- or long-term storage of trucks or trailers for use as storage facilities, the keeping of farm animals, such as horses, cows, pigs, fowl, or rabbits.

In addition the following uses are prohibited in the B-1 and B-2 zones: pawn shops, tattoo parlors, check-cashing shops, taxi/livery companies on parcels fronting on Bay Avenue, automotive transmission, automobile body shops, heavy duty machine shops and new or used automobile sales are also prohibited.

## **Section 3**

§ 21-85. C. (R-1.03 Single Family Residential) is amended to add the following to subsection C.3 (Conditional Uses):

“d. Additional Permitted Uses for the R-1.03 zone district, north side of Shore Drive that encompasses the Locust Street neighborhood. (Specifically Locust Street, west of Willow Street portions of Block 101 and 102): All uses that are permitted in the MXD Mixed Use District, with the exception of Mobile Home Parks, shall be permitted in the R-1.03 zone district, limited to the parcels in the Locust Street neighborhood. (Specifically Locust Street, west of Willow Street, portions of Block 101 and 102) subject to the condition that any development in the R-1.03 zone, using the MXD standards, shall have a minimum tract of two (2) acres. If the minimum tract area is met, the bulk requirements of the Mixed Use Development MXD District shall be utilized for any development.”

## **Section 4**

§ 21-90. A .1, 2, and 3 (B-1 Neighborhood Business District; Permitted principal uses) is hereby deleted and the following is inserted in its place:

- “1. Permitted principal uses:
  - a. Retail sales and services, business and personal service establishments;
  - b. Finance such as banks, savings institutions, credit unions, consumer lending, and securities brokerage;
  - c. Insurance offices such as life, health, medical carriers, claims adjusting and all other insurance related activities;
  - d. Medical and health care offices;
  - e. Restaurants, bars, and taverns and other eating establishments, except drive-through restaurants;
  - f. Professional, administrative and business office and services;
  - g. Recreational retail sales and service businesses related to water sports and outdoor recreation, such as, but not limited to, bicycling, fishing, and surfing;
  - h. Houses of worship;
  - i. Bed and Breakfasts;
  - j. Essential services, as defined in this chapter.
  - k. Offices and facilities for municipal, county, state and federal government;
2. Permitted Accessory Uses- Off-street parking areas; uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.
3. Conditional Uses.
  - a. Wireless communication facilities, in accordance with the requirements of Section 97.G.
  - b. Art, Handicraft studios/workshops and galleries, in accordance with the requirements of Section 97.B
  - c. Single family residences not fronting on Bay Avenue, in accordance with the requirements of § 21-97.”

*No changes are proposed to Paragraph 4. (Area and bulk requirements) of 21-90.A*

## **Section 5**

§ 21-90. A .1, 2 and 3 (B-2 Central Business District; Permitted principal uses) is hereby deleted and the following is inserted in its place:

- “1. Permitted principal uses:

- a. Retail sales and services, business and personal service establishments;
  - b. Finance such as banks, savings institutions, credit unions, consumer lending, and securities brokerage;
  - c. Insurance offices such as life, health, medical carriers, claims adjusting and all other insurance related activities;
  - d. Medical and health care offices;
  - e. Restaurants, bars, and taverns and other eating establishments, except drive-through restaurants;
  - f. Professional, administrative and business office and services;
  - g. Recreational retail sales and service businesses related to water sports and outdoor recreation, such as, but not limited to bicycling, fishing, and surfing;
  - h. Houses of worship;
  - i. Bed and breakfasts;
  - j. Essential services, as defined in this chapter.
  - k. Offices and facilities for municipal, county, state and federal government;
2. Permitted Accessory Uses- Off-street parking areas; uses and structures customarily subordinate and incidental to permitted principal uses and permitted conditional uses.
  3. Conditional Uses.
    - a. Wireless communication facilities, in accordance with the requirements of Section 21- 97.G.
    - b. Art, Handicraft studios/workshops and galleries, in accordance with the requirements of § 21-97.B
    - c. Single family residences not fronting on Bay Avenue, in accordance with the requirements of § 21-97."

*No changes are proposed to Paragraph 4. (Area and bulk requirements) of 21-90.A*

## **Section 6**

§21-92.01 (Highway Oriented Business) A.1. (Permitted Principal Uses) is amended and supplemented as follows: (additions are noted by underline; deletions are noted with a strikeover):

1. Permitted Principal Uses
  - a. All uses permitted in the B-1 Zone, however drive-through type uses are permitted.

- b. Health and Fitness establishments; athletic clubs, and day spas only on lots fronting on NJ Highway Route 36.

## **Section 7**

§ 21-96 (WC-2 Waterfront commercial) is amended and supplemented to add the following new conditional use to § 21-96.A.3 (Conditional Uses):

“Additional Permitted Uses for the WC-2 zone district, north of Shore Drive, that adjoins the MXD zone in block 101: All uses that are permitted in the MXD Mixed Use District, with the exception of Mobile Home Parks, shall be permitted in the single WC-2 zone district that adjoins the Mixed Use Development MXD zone in block 101 subject to the condition that any development in the WC-2 zone using the MXD standards shall have a minimum tract of 2 acres. If the minimum tract area is met, the bulk requirements of the Mixed Use Development MXD District shall be utilized for any development”

## **Section 8**

§21-96.01 (Mixed-Use Zone District) (MXD) Subsections A through and including D are amended as follows: (additions are noted by underline; deletions are noted with a strikeover):

### **21-96.01 Mixed-Use Zone District (MXD).**

- A. Purpose. The purpose of the Mixed-Use Zone district (MXD) is to encourage the development of livable neighborhoods which contain townhouse residential dwelling units, professional work space; nonresidential uses which are supported by a multi-modal transportation node. The MXD zone district encourages uses that are compatible with and will benefit from the weekday New York City ferry service; the Sandy Hook Bay Marina and open space areas from the County Park. The MXD zone district also should incorporate a unifying seaside architectural theme that will provide attractiveness and consistency to the area.

It is the Borough’s intention, in the creation of this zone district, to provide for comprehensive mixed-use development rather than lot-by-lot development to encourage innovative and desirable design and layout of residential and nonresidential structures. A mixed-use development shall consist of both residential and nonresidential uses.

- B. Permitted Principal Uses.
  - 1. Residential:
    - a. Townhouses.

- b. Multi-family dwellings in accordance with the MF Multi-Family Residence Zone District standards, § 21-88.
  2. Commercial Uses in Conjunction with a Planned Mixed-Use Development:
    - a. Marinas, excluding retail boat sales.
    - b. Ferry services.
    - c. Professional offices.
    - d. Restaurants, including full service and outdoor dining facility.
  3. Mobile Home Parks, as defined herein, as a principal permitted use, and in accordance with the requirements of Section 21-89.
  4. Hotels, maximum height of four stories.
- C. Permitted Accessory Uses.
  1. Boardwalks.
  2. Charter and excursion boats, off-shore areas.
  3. Community center, devoted exclusively to the residents of the mixed-use development.
  4. Home professional offices.
  5. Off and on-site parking.
  6. Pools, tennis courts, exercise rooms and recreation facilities for use of residents and guests.
  7. Public and private boatslip/dock for personal watercraft and as accessory to residential and commercial uses.
  8. Retail services, specific to marina related services.
  9. Uses accessory or incidental to the principal use.
- D. Bulk and Area Requirements.
  1. Minimum tract size: ~~six (6)~~ two (2) acres.
  2. Average setback from tract boundaries and all other right-of-way lines: Twenty (20) feet, but in no case shall the setback be less than fifteen (15) feet.
  3. Maximum density: Fourteen (14) dwelling units per acre.
  4. Minimum tract width: One hundred twenty-five (125) feet.
  5. Minimum tract depth: One hundred (100) feet.
  6. Maximum building coverage for the entire tract: Thirty-five (35%) percent.
  7. Maximum floor area ratio for the entire tract: 0.45.
  8. Maximum impervious coverage for the entire tract: Eighty (80%) percent.
  9. Maximum units per structure: Five (5) dwelling units.
  10. Maximum building length: One hundred fifty (150) feet.

11. Maximum height: Two and one-half (2.5) habitable stories over the garage at grade level; thirty-five (35) feet.
12. A structure shall not have more than two (2) connected townhouse units on one (1) facade without providing a variation in setback of at least four (4) feet.
13. The spacing of residential buildings shall adhere to the following minimums:
  - a. End wall to end wall: Twenty-four (24) feet
  - b. End wall to window wall: Thirty (30) feet
  - c. Windowed wall to windowed wall:
    - (1) Front to front: Seventy-five (75) feet
    - (2) Rear to rear: Fifty (50) feet
    - (3) End to end: Thirty (30) feet
  - d. Any building face to residential access street curb and municipal right-of-way: Twenty (20) feet.
  - e. Any building face to common parking area: Twelve (12) feet.
14. Minimum separation of nonresidential structures from all other principal structures: Thirty (30) feet.
15. Any approval for development in the MXD Zone, which results in the retirement of the Mobile Home Park or the removal of any residents of the Mobile Home Park shall contain a condition that the applicant shall provide proof, to the satisfaction of the board of original jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21. Although N.J.S.A. 46:8C-21 is invoked by an application for one (1) or more variance(s), the requirements of N.J.S.A. 46:8C-21 shall apply to the aforementioned circumstances regardless of whether or not the application requires one (1) or more variance(s). For purposes of this chapter, "adequate private residential facilities and circumstances" shall share the definition of "comparable housing or park site" as provided in N.J.S.A. 2A:18-61.7(a). An applicant must provide proof of compliance with this paragraph 15 to the board of original jurisdiction prior to obtaining final approval. This section is not severable from the other provisions of the chapter and the zoning of the property to the MXD Zone is conditioned upon the above relocation provision.

## **Section 9**

§21- 97 (Conditional Uses) is hereby amended to add subsection M. Single Family uses in the B-1 and B-2 zones as follows:

"M. Single Family uses in the B-1 and B-2 zones.

Single family detached residences shall be permitted as a conditional use in the B-1 and B-2 zones subject to the following conditions:

1. The dwelling and the parcel shall comply with the bulk requirements of the R-2.03 zone; and,
2. The front facade of the single family residence shall not front on Bay Avenue and any lot frontage on Bay Avenue will be used exclusively for a principal permitted use that is allowed in the B-1 or B-2 Zone.”

**22-14.REPEALER.**

All ordinance or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

**§ 22-15.SEVERABILITY.**

If any section, subsection, clause or phrase of this ordinance shall, for any reason, be held to be unconstitutional or invalid, such decision shall not affect the remaining portion of this ordinance.

**EFFECTIVE DATE.**

This ordinance shall take effect as provided by law.

**SECTION**      *Certified Copy*

A certified copy of the within Ordinance shall be forwarded by the Borough Clerk to the clerks of all adjoining municipalities, the Monmouth County Planning Board and the following:

1.      Borough Administrator
2.      Borough Engineer
3.      Planning Board
4.      Zoning Board
5.      Borough Attorney
6.      Tax Assessor
7.      Zoning Official

**BE IT FURTHER ORDAINED** that this ordinance shall take effect upon final passage and publication in accordance with law.

**Carolyn Cummins**  
**Borough Clerk**