



Asbury Park, New Jersey
ORDINANCE NO. 2020-13

AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF ASBURY PARK TO AMEND ARTICLE VI ZONING, SECTION 30-71.3 (B1) DOWNTOWN RETAIL DISTRICT, SECTION 30-71.4 (B2) MAIN STREET RETAIL SALES AND SERVICE AND SECTION 30-71.5 (NC) NEIGHBORHOOD COMMERCIAL DISTRICTS TO CONSOLIDATE ZONE DISTRICTS, AMEND PERMITTED USES AND INCENTIVIZE THE CREATION OF INCLUSIONARY HOUSING CONSISTENT WITH AND DESIGNED TO EFFECTUATE THE CITY'S ADOPTED 2019 THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the Planning Board adopted a Master Plan & Master Plan Reexamination Report in December 2017 that includes Land Use and Housing Objectives and recommendations;

WHEREAS, the Master Plan & Master Plan Reexamination Report recommended consolidation of the B2 and NC districts, and modernization of the permitted uses;

WHEREAS, the Master Plan & Master Plan Reexamination Report also recommended identification of inclusionary zoning opportunities, ensuring affordable housing units and projects are consistent with State standards, and adoption of a housing element and fair share plan;

WHEREAS, the Planning Board adopted a Third Round Housing Element and Fair Share Plan in February 2019 that recommended amendments to the City's Land Development Regulations intended to promote and incentivize the creation of affordable housing units in inclusionary development;

WHEREAS, the Third Round Housing Element and Fair Share Plan recommended amending the B2 and NC Districts consistent with the Master Plan & Master Plan Reexamination Report and to incentivize inclusionary housing consistent with N.J.A.C. 5:93, the substantive rules of the Council on Affordable Housing;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Asbury Park, Monmouth County, New Jersey, that the Land Development Regulations as contained in Chapter 30 of the Code of the City of Asbury Park are hereby amended to incentivize new inclusionary housing as follows:

SECTION 1. Amend Section 30- 15 Definitions as follows:

Additions are shown as **thus**; deletions shown as ~~thus~~

URGENT CARE CENTER

Shall mean any use engaged in providing walk-in, extended hour access for acute illness and injury care that is either beyond the scope or availability of the typical primary care

practice or medical clinic. No overnight patients shall be kept on the premises. Medical offices and hospitals shall not be included.

SECTION 2. Amend Section 30- 66.1 Designation of Zoning Districts as follows:

Additions are shown as thus; deletions shown as ~~thus~~

...

~~B1 Downtown Retail District~~

~~B2 Main Street Retail Sales and Service~~

~~NC Neighborhood Commercial~~

B Business District

...

SECTION 3. Amend Section 30-67 Schedule of Zone District Area, Yard and Building Requirements as set forth in the attached. Additions are shown as thus; deletions shown as ~~thus~~ in the attached.

SECTION 4. Amend Section 30-68.3 Height Regulations as follows:

Additions are shown as thus; deletions shown as ~~thus~~

...

3. In the ~~B1, B2~~ B and LI Zone Districts, penthouses are exempt from height restrictions provided they cover not more than twenty (20%) percent of the main roof area, are not more than twelve (12) feet, and further provided that all building service equipment and appurtenances are enclosed in the penthouse in addition to any use permitted in the zone where located.

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SECTION 5. Amend Section 30-71.2 Accessory Uses as follows:

Additions are shown as thus; deletions shown as ~~thus~~

Customary accessory uses such as signs (subject to § 30-61) and parking facilities (subject to § 30-59) are permitted in the ~~B1, B2~~ B and LI Zones. Storage trailers are specifically prohibited as accessory uses.

SECTION 6. Delete Section 30-71.4 (B2) - Main Street Retail Sales and Service.

SECTION 7. Rename and Amend Section 30-71.5 (NC) - Neighborhood Commercial as follows:

Additions are shown as thus; deletions shown as ~~thus~~

Section 30-71.5 (~~NC~~)—~~Neighborhood Commercial~~ (B) Business District

a. Permitted Uses.

1. ~~Hardware stores.~~ Stores and shops for the conduct of a retail trade or services not specifically prohibited.

2. Personal services.

3. Take-out and sit-down restaurants.
4. **Art galleries, art studios, museums, and theaters along Asbury Avenue.**
5. **Artist live/work studios**
1. ~~**Delicatessens.**~~
6. Convenience stores.
1. ~~**Card and gift shops.**~~
1. ~~**Pharmacies.**~~
1. ~~**Florists.**~~
7. **Business, secretarial, and trade schools.**
8. **Gymnasiums, and health and fitness clubs.**
9. **Dance studios, martial arts schools, and similar instructional schools.**
10. Laundromats.
1. ~~**Dry cleaners and tailors.**~~
11. ~~**Groceries and supermarkets.**~~
11. **Business and professional offices, banks, and fiduciary institutions.**
12. **Medical Offices.**
13. **Arcades.**
14. ~~**Automobile rental uses.**~~ **Automobile rental uses located along Memorial Drive only.**
15. Upper story residences subject to subsection f. herein and § 30-73.11.
16. **One (1) and two (2) family residences existing as of the date of this Ordinance.**

b. Prohibited Uses

1. Nursing homes.
2. Licensed health care facilities.
3. Soup kitchens and food pantries.
4. Houses of worship and places of assembly.
5. Social clubs.
6. Retail and used car sales.
7. Motor vehicle repair garages.
8. Motor vehicle body repair garages.
9. Nightclubs and cabarets.
10. Gas stations.
11. **Drive throughs.**
12. **Sexually oriented land uses.**

c. **Permitted Accessory Uses.**

1. **Accessory buildings.**
2. **Private recreational facilities and common open space.**
3. **Off-street parking facilities, including garages and/or structured parking**
4. **Minor home occupations.**

d. **Permitted Conditional Uses.**

1. **Urgent Care Center.**

- 2. Microbrewery or brew pub, including distilleries.**
- 3. Sound recording and rehearsal studios above the first floor of a building.**

e.e. **Off-street Parking Requirements**

1. For new development on vacant property: One (1) parking space per three hundred fifty (350) square feet of gross floor area, **with the exception that floor area devoted to low, moderate and middle income housing units shall not require parking.** Parking requirement may be met through lease of Municipal parking within one thousand (1,000) feet of the site.

f. **Affordable Housing Requirements**

1. **The creation of five (5) or more new residential units shall require a 20% set-aside of low and moderate income housing units.**
2. **Additional density of five (5) units per acre above that which is permitted in the district shall be provided where 8% or more of new residential units are reserved for middle income housing and where 20% or more of new residential units are reserved for low and moderate income housing. The set-aside requirement for low and moderate income housing units shall be required whenever five (5) or more new residential units are created, even if middle income units are provided.**
3. **Affordable housing units shall comply with the City's affordable housing regulations and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80- 26.1), which shall control in the case of any conflicts with this ordinance, provided that a minimum of 13 percent of the total low- and moderate-income units shall be affordable to very low income households (i.e. 30% or less of median income).**

g. **Site Design.**

1. **Parking shall not be located between a building and a public street.**
2. **A planted buffer strip of not less than 10 feet in width or a solid fence shall be provided along each side or rear property line that abuts a residence.**

h. **Building Design.**

1. **First-floor facades containing nonresidential uses which are visible from a public street shall be expressed as building modules that do not exceed 40 feet in width so as to eliminate blank walls, create more interesting architecture, and facilitate small-scale commercial opportunities. Architectural elements including but not limited to piers, columns, insets, projections or other vertical elements must be used to visually break up the plane of the first floor façade.**

2. Where facing a public street, nonresidential uses shall have a minimum of 60% of the ground floor facade between three (3) and 10 feet above grade and shall have 30% of upper floor facades be transparent and shall provide visual access to the street. Blanked-out windows, windows which display only signage, or look into unused or "dead" space do not meet this requirement.

3. Structured parking that is visible to a public street shall not exceed one story (parking level). Structured parking shall be screened by structural elements that are compatible with the materials and design of the front and side building facades.

4. Building materials and architectural details shall be consistent on all sides of each building.

5. Multiple principal buildings shall be permitted on a lot.

6. Maximum building length: 100 feet.

7. Building facades shall be finished in stone veneer, cement stucco, brick, fiber cement panel and/or cast stone. Metal shall be used only for minor accentuation of other elements of the facade.

8. Building entrances shall be articulated to make it easily identifiable by visitors and to provide architectural interest. Examples of special features of entrances include, but are not limited to, awnings and architectural treatments.

9. Pedestrian friendly building design and on-site site furnishings (outdoor tables, benches, bicycle racks, etc.) are required along the public street.

10. Roof design:

(a) Roof shape, color, and texture shall be coordinated with the exterior materials of the building's facade.

(b) Roof design shall minimize the negative impact of roof protrusions by grouping plumbing vents, ducts, and other utility structures together.

(c) Rooftop equipment such as mechanical units, vents, and flues shall be located centrally on the building roof, to the extent practicable. Any equipment visible from a publicly accessible area, adjacent lots, and pedestrian corridors shall be screened with solid materials using parapets, pitched roof forms, or penthouses. Screening shall be constructed of the same or complementary material as the building.

SECTION 8. Amend Section 30-71.6 (LI) Light Industrial as follows:

Additions are shown as **thus**; deletions shown as **thus**

a. Permitted Uses. All uses permitted ~~under § 30-71.3 through 30-71.5 in the B District~~ plus the following uses: cabinet makers; furniture makers; glass and mirror cutters; machine shops; welders; manufacture, assembly or fabrication of tangible products that does not involve emission of smoke, fumes or dust and does not generate noise in excess of sixty (60) decibels beyond the property line; warehousing; wholesaling; repair shops, not to include motor vehicle repair.

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SECTION 9. Amend Section 30-73.11 Upper Story Residences in Nonresidential Zoning Districts as follows:

Additions are shown as **thus**; deletions shown as ~~thus~~

Upper story residences in nonresidential business districts shall comply with the following requirements:

- a. ~~There shall be not more than four (4) apartments on any commercial property.~~
- a. Access to all apartments shall be separate from any access to nonresidential use in the same building.
- b. **The portion of the first floor of buildings directly fronting on a public street shall have not less than 85% of the building length consist of permitted nonresidential uses; up to 15% of the remaining building length may consist of residential uses, which shall include but is not limited to residential units, entries and vestibules, mail rooms, and other residential accessory uses. The portion of the first floor of buildings facing an off-street parking area may consist of residential uses. ~~Apartments shall not be permitted on the first floor of any building in a nonresidential zoning district, and shall not be permitted on any floor in a building which floor contains a nonresidential establishment.~~**
- c. Apartment shall not consist of more than three (3) bedrooms.
- d. A commercial building that is enlarged to provide for one (1) or more upper story residences shall be required to provide one (1) additional off-street parking space per apartment.
- e. The applicant shall submit a proposal for the handling and disposal of solid waste, including the means by which differing recycling requirements between commercial and residential uses will be reconciled and shall comply with all applicable requirements regarding same.
- f. **Parking shall not be required for low, moderate and middle income units.**

SECTION 10. Amend Section 30-76 Regulations Governing Conditional Use, at subsection 30-76.3 (Specific Standards) thereof, as follows:

Additions are shown as **thus**; deletions shown as ~~thus~~

- a. ~~Reserved. Urgent care.~~
1. **Access shall be provided from Memorial Drive, Asbury Avenue, or Main Street.**
2. **Where abutting a residential zone district, operating hours shall be between 7am and 10pm.**
3. **Parking shall be provided in accordance with the B district requirements.**

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Section 11. Severability.

If any section, part of any section, or clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this ordinance. The governing body of the City of Asbury Park declares that it would have passed the ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 12. Effective Date.

This ordinance shall take effect immediately upon passage and publication according to law.

Section 13. Repealer.

All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

I, MELODY HARTSGROVE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of ORDINANCE NO. 2020-13 which was finally adopted by the City Council at a meeting held on the 30th day of April, 2020



MELODY HARTSGROVE
CITY CLERK

✓ Vote Record - Ordinance 2020-13						
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Withdrawn <input type="checkbox"/> Introduced			Yes/Aye	No/Nay	Abstain	Absent
	Eileen Chapman	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yvonne Clayton	Seconder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Jesse Kendle	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Amy Quinn	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	John Moor	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>