

ORDINANCE 05-2026

ORDINANCE OF THE BOROUGH OF EATONTOWN, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY CHAPTER 89, LAND USE, ARTICLE VII, AREA BULK AND USE REQUIREMENTS CREATING A NEW SECTION, SECTION 89-54.4 "R-MFMU ZONE-AH3 MIXED USE MULTIFAMILY AFFORDABLE HOUSING 3-ZONE

WHEREAS, the Borough of Eatontown, County of Monmouth, State of New Jersey, (hereinafter, "Borough" or "Eatontown") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and in fact obtained a Final Round Three Judgment of Compliance and Repose on from the Court in the matter captioned In the Matter of the Application of the Borough of Eatontown, County of Monmouth, Superior Court of New Jersey, Law Division, Docket No. MON-L-2522-15 thereby immunizing the Borough from builder's remedy litigation until July 1, 2025 (the "Third Round Litigation") ; and

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or the "Act"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide an estimate of the Present Need, also referred to as the rehabilitation obligation, and the Round 4 Prospective Need of all municipalities by October 20, 2024 based upon the criteria on the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the Present Need and the Round 4 Prospective Need obligation for all municipalities based upon its interpretation of the standards in the Act; and

WHEREAS, the DCA Report calculates Eatontown's Round 4 (2025-2035) Present Need (Rehabilitation) Obligation as 20 units and its Round 4 Prospective Need Obligation as 193 units; and

WHEREAS, the Borough adopted Resolution 45-2025 accepting the DCA's Fourth Round Present Need (Rehabilitation) calculation of 20 units but it rejected the DCA's calculation of the Borough's Fourth Round Prospective Need (New Construction) calculation of 193 units and instead calculated the obligation at 180 units in conformance with the Amended FHA; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Act shall file an action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, the Borough filed a timely declaratory judgment complaint in accordance with AOC Directive #14-24 known as In the Matter of the Application of the Borough of Eatontown County of Monmouth, State of New Jersey, Docket No. MON-L-000310-25 seeking a declaration as to the Borough's Fourth Round affordable housing obligation and the approval of the Borough's Housing Element and Fair Share Plan ("HESP") which sets forth the affordable housing mechanisms the Borough will implement to satisfy its Fourth Round affordable housing obligation; and

WHEREAS, the Borough engaged in court ordered mediation through the Affordable Housing Dispute Resolution Program and establishing the Borough's Fourth Round prospective need obligation at 186 units, which was subsequently memorized through the entry of a court order on April 10, 2025; and

WHEREAS, the Court entered an order on April 14, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of 20 units and a Prospective Need of 186 units, which no party appealed, and ordering the Borough to file a Housing Element and Fair Share Plan ("HEFSP") by June 30, 2025; and

WHEREAS, the Borough having filed its Housing Element and Fair Share Plan on June 4 2025 (the "HEFSP"); and

WHEREAS, FSHC having filed a challenge pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 31, 2025; and

WHEREAS, the Borough and FSHC and the Borough having agreed to amicably resolve the issues set forth in the challenge through a mediation agreement which included an inclusionary development of 160 total residential housing units with a twenty percent set aside of 32 affordable housing units with a commercial retail component proposed by Victoria Plaza at Eatontown, LLC ("Victoria") on the property designated as Block 602, Lots 1 and 2 which if approved will result in a compliance certification for the Borough for the Fourth Round immunizing it from builder's remedy litigation or ten years from the date certification is approved by the Court; and

WHEREAS, THE Borough and Victoria having entered into a Memorandum of Agreement and Settlement to assure the Borough that Victoria is bound to produce the 32 affordable housing units in order to assist the Borough in meeting its Fourth Round affordable housing obligation; and

WHEREAS, the Amended AHA requires municipalities to adopt all zoning ordinances required to implement its Fourth Round affordable housing plan by March 15, 2026 in order to maintain immunity from builder's remedy litigation.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that it hereby amends Chapter 89, Land Use, Article VII, Area Bulk and Use Requirements creating a new section, Section 89-54.4 "R-MFMU Zone-AH3 Mixed Use Multifamily Affordable Housing-3 Zone as follows:

§89-54.4 R-MFMU-AH-3 Mixed Use Multifamily Affordable Housing-3 Zone

- A. Purpose. The purpose of the R-MFMU-AH-3 Zone is to allow for mixed-use multi-family residential with a twenty percent affordable housing set aside to assist the Borough in meeting its Fourth Round affordable housing obligation. This ordinance creates the R-MFMU-AH-3 Zone and shall only include Block 601, Lots 1 and 2 as denoted on the Borough's Tax Map.
- B. Permitted Principal Uses:
 - 1. Residential
 - a. Townhomes, traditional and stacked
 - b. Multifamily Units
 - c. Senior Housing/Active Adults
 - 2. Non-Residential

- a. Retail/Commercial Development
- 3. Mixed Use
 - a. Residential and Retail
- C. Permitted Accessory Uses:
 - 1. Off-street parking, including driveways and parking lots/spaces
 - 2. Home occupation
 - 3. Open space and recreation
 - 4. Private outdoor amenity space, such as patios and decks and related furnishings
 - 5. Clubhouse and related community amenities, such as but not limited to swimming pool, dog park, tennis court, pickleball court, co-working spaces, fitness space, outdoor cooking and eating facilities, and walking trails
 - 6. Maintenance buildings
 - 7. Loading areas for permitted principal uses, as required
 - 8. Fences, walls, berms and landscape buffers
 - 9. Signs
 - 10. Stormwater Management facilities
 - 11. Mechanical and utility equipment and infrastructure
 - 12. Electric vehicle charging stations and make-ready infrastructure
 - 13. Uses and structures that are customary and incidental to a permitted principal use
- D. Bulk Standards:

The redevelopment of the property which is the subject of this ordinance shall be in accordance with the bulk standards as set forth below. Where a standard is not specified below, the Borough of Eatontown’s Land Use ordinance and regulations shall apply.

Overall Tract:

Maximum residential units:	160 dwelling units
Minimum tract area:	10 acres
Minimum tract width:	400 feet
Minimum tract depth:	400 feet
Tract perimeter setback:	50 feet along Hope Road and Pine Brook Road 25 feet all other lot lines
Maximum building coverage:	30%
Maximum impervious coverage:	75%

Individual standards:

	Townhouse	Multifamily Unit		Non-Mixed Use residential	
Minimum Lot Area (SF)	N/A*	N/A**		N/A	N/A**
Maximum units per building	16	32	N/A	32	
Minimum lot width	20'*	N/A	N/A	N/A	
Minimum lot depth	60'*	N/A	N/A	N/A	
Maximum height (feet)	45	50		30	50
Maximum height (stories)	3	3		2	3
Minimum distance between buildings					
Front to front	50'	N/A	N/A	N/A	
Front to side	50'	N/A	N/A	N/A	
Side to side	25'	N/A	N/A	N/A	
Side to rear	50'	N/A	N/A	N/A	
Minimum setback to parking					
Residential	10'	10'	10'	10'	
At garage/driveway	0'		0'	N/A	N/A
Mixed Use	0'		0'	N/A	N/A
Maximum lot coverage by building	100%	N/A	N/A	N/A	
Maximum impervious coverage	100%	N/A	N/A	N/A	
Parking spaces	RSIS	RSIS 1 per 250 sf			
Loading spaces	N/A	N/A1 per 20,000 sf			

*Lots created only for individual (fee-simple) ownership are not subject to overall tract standards.

**There shall be no minimum lot area for the subdivision of the mixed use retail and residential building or the remainder parcel. The 10 acre minimum tract area standard only applies to the parent tract eligibility for this specific zone.

E. Building and Site Design Standards

Overall Tract

1. The development in the R-MFMU-AH-3 zone is a redevelopment of previously developed property and shall not be subject to the requirements of the Tree Removal Ordinances of the Borough of Eatontown, Chapter 89-3. C. and Chapter 307.
2. The parking and loading requirements specified herein shall govern and supersede the Borough of Eatontown Ordinance Chapter 89-36.

3. The proposed project is a mixed-use development and the Landscape, Buffer and Screening requirements of the Borough of Eatontown Ordinance Chapter 89-39 shall not apply.
4. Notwithstanding any requirements of the Borough of Eatontown Land Development Ordinance (Chapter 89), and specifically Article XI A of Chapter 89, the stormwater management facilities proposed for the site shall comply with the State Stormwater Management Regulations, N.J.A.C. 7:8. Further, the site-specific Concept Plan made a part of and attached to this Ordinance specifically designates stormwater management facilities, including but not limited to, bioretention systems, along the site frontages of Hope Road and Pine Brook Road. Nothing in the Borough of Eatontown Ordinances shall prohibit the installation of said stormwater management facilities, including if such facilities are within lands designated as a buffer or setback.

Townhomes / Stacked Townhomes

1. Generally, all buildings shall incorporate elements that divide façade planes and create a visual play of light and shadow. Long, uninterrupted horizontal facades and architectural elements are discouraged.
2. Building facades shall be staggered horizontally to break the monotony of continuous horizontal facades and include vertical offsets, inset balconies or changes in exterior finish that combine to break the building mass and provide visual interest.

F.. Affordable Housing Requirements. All affordable housing units shall meet the requirements of the Amended FHA, and the Uniform Housing Affordability Controls as last amended and the Borough's Affordable Housing Ordinance.

G. The development is subject to Section 89-105.2 (Development Impact Fees).

IT IS FURTHER ORDAINED, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

IT IS FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

IT IS FURTHER ORDAINED, that is Ordinance shall take effect upon passage and publication in accordance with applicable law.

DATE OF INTRODUCTION: 02/25/2026

DATE OF PUBLIC HEARING: 03/11/2026

APPROVED:



ANTHONY TALERICO, JR., MAYOR
Date: 3/12/2026

ATTEST:



TRINA LINDSEY, MUNICIPAL CLERK
Date: 3/12/2026