

**BOROUGH OF MONMOUTH BEACH  
COUNTY OF MONMOUTH  
ORDINANCE NO. O-03-26**

**AN ORDINANCE TO AMEND CHAPTER 30, LAND USE AND DEVELOPMENT  
REGULATIONS, ARTICLE 30-10, "AFFORDABLE HOUSING" OF THE BOROUGH  
CODE TO INCLUDE A NEW SECTION 30-10.26, "WHARFSIDE DRIVE  
AFFORDABLE HOUSING OVERLAY ZONE"**

**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 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 Monmouth Beach County of Monmouth, State of New Jersey, Docket No. MON-L-000435-25 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 Court entered an order on April 14, 2025 setting the Borough's Fourth Round fair share obligations as a Present Need of 0 units and a Prospective Need of 47 units and order the Borough to file a Housing Element and Fair Share Plan by June 30, 2025; and

**WHEREAS**, the Borough having entered into a Mediation Agreement with Fair Share Housing enter which requires the Borough to take certain actions, including the adoption of the Wharfside Overlay Zone Ordinance by March 15, 2026; and

**WHEREAS**, the Borough Committee of the Borough of Monmouth Beach believes it is in the best interest of the Borough to adopt the Wharfside Overlay Zone ordinance in order to obtain compliance certification from the Program/Court thereby protecting the Borough from exclusionary zoning litigation for ten years until 2035; and

**NOW, THEREFORE, BE IT RESOLVED** By the Borough Committee of the Borough of Monmouth Beach, County of Monmouth, State of New Jersey, that it hereby creates a new section, Chapter 30 Land Use and Development Regulations, Article 30.10 Affordable Housing Section 30-10.26

**SECTION 1.** Chapter 30, Article 30-10, "Affordable Housing" shall be amended to include a new Section 30-10.26 " Wharfside Drive Affordable Housing Overlay Zone", which shall read as follows:

**§30-10.26 Wharfside Drive Affordable Housing Overlay Zone**

**A. Purpose.**

The purpose of the Wharfside Drive Affordable Housing Overlay Zone is to provide an opportunity to develop affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing, in conformance with the requirements of the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.) and applicable rules governing the development of affordable housing as established by the Court or other appropriate entity. The sites herein are included in the Housing Element and Fair Share Plan of the Borough of Monmouth Beach and are intended to address the Borough's fair share obligation. Permitted and conditional uses within the designated overlay zone shall include all permitted and conditional uses in the underlying zoning district in which the overlay zone is located.

**B.** Block 13, Lot 9.01 shall be designated as part of the Wharfside Drive Affordable Housing Overlay Zone.

**C. Principal permitted uses.**

1. All uses permitted within the zoning district in which the overlay zone is located.
2. Inclusionary affordable housing development for sale or rental housing, the density of which shall not be more than 20 families per acre. The bedroom mix of affordable units shall be subject to the required bedroom mix of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. (UHAC).

**D.** Permitted accessory uses. The permitted accessory uses for mixed-use inclusionary development in the Wharfside Drive Affordable Housing Overlay Zone shall be those otherwise permitted in the underlying zoning district in which the overlay zone is located.

**E.** Area, yard and building requirements. The requirements for mixed-use inclusionary development in the Wharfside Drive Affordable Housing Overlay Zone shall be those otherwise required in the underlying zoning district in which the overlay zone is located, except as follows:

1. The total lot coverage for buildings shall not exceed 30% of the lot area.
2. The total lot coverage shall not exceed 60% of the lot.
3. The maximum principal building height shall not exceed three stories/42 feet.

**F.** Off-street parking shall be required in accordance with Section 30-8.21.

**G. Affordable housing requirements.**

- (1) All affordable housing developments shall provide a minimum of 20% affordable housing units for low- and moderate-income households in for-sale developments, and a minimum of 15% affordable housing units for low- and moderate-income households in rental developments, in conformance with the requirements of the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 et seq.).
- (2) An affordable housing development shall not cause a permanent reduction in the number of restricted units within the overlay that existed prior to its approval. Any restricted units within the overlay that existed before such approval and are removed must be replaced with units of the same income requirements and equivalent number of bedrooms.

**H.** In all affordable housing developments, each market rate residential unit shall adhere to the following minimum floor area requirements: one-bedroom apartments shall be a minimum of 850 square feet. Each additional bedroom shall have a minimum floor area of 150 square feet.

**I.** Every residential unit shall be so designed that each apartment within the building shall be provided with not less than two exterior exposures for each dwelling unit, the same being properly pierced by windows in order to provide either through or corner ventilation.

**SECTION 2.** All Ordinances of the Borough of Monmouth Beach, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 3.** If any 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.

**SECTION 4.** This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

Introduced: February 25, 2026

Passed & Adopted: March 10, 2026

Joyce L. Escalante, RMC  
Municipal Clerk