



# ORDINANCE 11- 2010

## **AN ORDINANCE AMENDING AND SUPPLEMENTING THE DEVELOPMENT REGULATIONS OF THE BOROUGH OF ATLANTIC HIGHLANDS INCREASING THE PERMITTED BUILDING HEIGHT AND FLOOR AREA RATIO OF STRUCTURES IN THE HISTORIC BUSINESS DISTRICT, CENTRAL BUSINESS DISTRICT AND LIGHT INDUSTRIAL DISTRICT AND PERMITTING MIXED-USE IN SUCH ZONING DISTRICTS.**

**WHEREAS**, the Planning Board of the Borough of Atlantic Highlands has conducted a review of the Master Plan and Zoning Ordinance of the Borough with respect to permitted building height, floor area ratio and permitted uses in the HBD Historic Business District, CBD Central Business District and LI Light Industrial District; and

**WHEREAS**, the Planning Board has determined that the Master Plan should be amended in certain respects in order to continue Borough efforts to upgrade and revitalize the HBD Historic Business District, CBD Central Business District and LI Light Industrial District by permitting an increase in the allowable height of structures and to provide for an increase in floor area ratio to permit mixed office, retail and residential components to create the opportunity for a greater variety of products, services and housing opportunities that will strengthen the business community through increased demand for local services; and

**WHEREAS**, The Planning Board adopted an Amendment to the Master Plan on August 13, 2009, which Amendment recommends the aforesaid changes to the current Zoning Ordinance of the Borough; and

**WHEREAS**, the Master Plan Amendment recommends an increase in the permitted height of structures in the Central Business District and Light Industrial District to accommodate housing and/or office space to encourage investment to revitalize existing buildings and develop vacant land, and having found that mixed-use buildings will create a greater variety of services, products and housing opportunities to meet affordable housing requirements and will strengthen the business community by increasing demand for local services, which revisions will also require providing for an increase in the permitted floor area ratio in order to accommodate the contemplated uses; and

**WHEREAS**, the Master Plan Amendment recommends increasing the allowable height of buildings in the Central Business District and Light Industrial District to forty (40) ft., consistent with the existing permitted height in the Historic Business District; and

**WHEREAS**, the additional height in the Central Business District and Light Industrial District coupled with additional permitted uses in the Historic Business District, Central

Business District and Light Industrial District require a commensurate increase in the permitted building coverage, lot coverage and floor area ratio for those zones; and

**WHEREAS**, the Borough finds that it is appropriate to amend and supplement the Development Regulations of the Borough of Atlantic Highlands to incorporate the recommendations of the Master Plan Amendment: and

**WHEREAS**, the Borough recognizes that the extent to which a particular parcel may be able to utilize these revisions will depend on the characteristics of the property. Although the characteristics of a particular property may not permit reaching the maximum height, building coverage, impervious surface coverage or useable floor area ratio these revisions will provide additional flexibility to promote development and redevelopment in these zones.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Atlantic Highlands, in the County of Monmouth and State of New Jersey that the Development Regulations of the Borough of Atlantic Highlands are hereby amended and supplemented as follows:

**Article 2, Section 2.4 – “Definitions”** – Shall be revised to add the following sentence to the definition of “Floor Area Ratio Useable” – “For Mixed Use Commercial/Residential uses in the HBD and CBD Zones and for Mixed Use Light Industrial/Business/Residential uses in the LI Zone the useable floor area ratio shall be calculated exclusive of the floor area of basements or cellars that is used to provide on-site parking.

**Article 5, Exhibit 5-2 – “Schedule of Zoning District Requirements, Maximum Building Height”** - shall be revised to provide a maximum building height for principal buildings or structures in the CBD Zone and LI Zone of forty (40) ft., three (3) stories.

**Exhibit 5-2 “Schedule of Zoning District Requirements, Maximum Usable Floor Area Ratio”**– shall be revised to provide for a floor area ratio of 3.00 in the HBD Historic Business District Zone, 2.00 in the CBD Central Business District Zone and 2.00 in the LI Light Industrial District Zone.

**Exhibit 5-2 “Schedule of Zoning District Requirements, Maximum Lot Coverage”**– Shall be revised to permit Building Coverage of 100% and Impervious Surface Coverage of 100% in the HBD Historic Business District Zone, Building Coverage of 75% and Impervious Surface Coverage of 75% in the CBD Central Business District Zone and Building Coverage of 75% and Impervious Surface Coverage of 75% in the LI Light Industrial District Zone.

**Exhibit 5-2 “Schedule of Zoning District Requirements, Minimum Yard Requirements** – Shall be revised to delete the rear yard setback requirement for the HBD

Historic Business District Zone and the CBD Central Business District Zone. The required setbacks for the LI Light Industrial District Zone shall be front yard – 20 ft., side yard – 15 ft., total side yards - 40 ft. and rear yard – 20 ft..

**Exhibit 5-2 “Schedule of Zoning District Requirements”** – Shall be revised to add the following footnote “(14) In the HBD, CBD, and LI districts basements and cellars utilized for off-street parking to accommodate on-site uses shall not be counted as a floor.”

**Exhibit 5-4 “Schedule of Uses”** shall be revised to add the following use under the classification of “Residential” as follows:

**“Mixed Use Light Industrial/Business Office/Residential”**

This use shall be designated “C” as a permitted conditional use in the LI Light Industrial Zone District.

**Article 6, Section 6.10** shall be revised to read as follows:

**MIXED-USE COMMERCIAL/RESIDENTIAL AND MIXED-USE LIGHT INDUSTRIAL/BUSINESS OFFICE/RESIDENTIAL**

**MIXED-USE COMMERCIAL/RESIDENTIAL**

A mixed use building containing commercial and residential uses may be permitted in the HBD (Historic Business District) and the CBD (Central Business District) provided that such use adheres to the minimum standards of the Zone District and to the following specific conditions:

**6.10.A.** Residential Dwelling Units shall be confined to the upper stories of the building. Street level space shall be occupied by the principal uses permitted in the District and required accessory uses. Parking for Residential Dwelling Units may be provided on-site and shall comply with RSIS standards.

**6.10.B.** No dwelling unit shall contain more than two (2) bedrooms. Dens, lofts and other such areas capable of serving as bedrooms shall be construed as bedrooms.

**6.10.C.** Plans for the overall use of the building shall be submitted. Any building which is in a state of disrepair or otherwise violates property maintenance standards shall be repaired or rehabilitated to conform to applicable Municipal Requirements.

**6.10.D.** Each dwelling unit shall have the following minimum habitable floor area:

One (1) bedroom dwelling unit – 750 sq. ft.

Two (2) bedroom dwelling unit – 900 sq. ft.

**MIXED USE LIGHT INDUSTRIAL/BUSINESS OFFICE/RESIDENTIAL**

A mixed-use building containing light industrial, business office and residential uses may be permitted in the LI (Light Industrial District) provided that such a use adheres to the minimum standards of the Zone District and to the following specific conditions:

**6.10.E** Residential Dwelling Units shall be confined to the upper stories of the building. Street level space shall be occupied by the principal uses permitted in the District and required accessory uses. Parking for Residential Dwelling Units may be provided on-site and shall comply with RSIS standards.

**6.10.F.** No Dwelling Unit shall contain more than two (2) bedrooms. Dens, lofts and other such areas capable of serving as bedrooms shall be construed to be bedrooms.

**6.10.G.** Plans for the overall use of the building shall be submitted. Any building which is in a state of disrepair or otherwise violates property maintenance standards shall be repaired or rehabilitated to conform to applicable Municipal Requirements.

**6.10.H.** Each Dwelling Unit shall have the following minimal habitable floor area:

- One (1) bedroom dwelling unit – 750 sq. ft.
- Two (2) bedroom dwelling unit – 900 sq. ft.

**Article 9, Section 9.2.B.5.i** – Shall be revised to provide the following, “In the HBD, CBD and LI Zones, the off-street parking requirement may be satisfied in whole or in part by evidence that the required amount of parking has been or will be provided in public or privately operated lots available for the use of the general public. Such parking space shall be located within six hundred (600) feet walking distance of the principal use, but in no case shall such parking areas be located on the opposite side of State Highway 36 from the principal use.”

**BE IT FURTHER ORDAINED** that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon passage and publication as provided by law.

A motion to introduce this Ordinance was offered by Councilman L Fligor and was duly seconded by Councilman R Dellosso.

This motion was passed by the following vote:

Ayes:	Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)
Nays:	None (0)
Abstain:	None (0)
Absent:	None (0)

The Second Reading, Public Hearing and possible adoption is scheduled for May 26, 2010.

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body at its meeting held April 28, 2010.

WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 29th day of April 2010.

/s/ Dwayne M. Harris

Dwayne M. Harris, RMC

After a second reading and public hearing a motion was offered by Councilman L Fligor to adopt this ordinance. It was duly seconded by Councilman R Dellosso.

This motion was passed by the following vote:

<b>Ayes:</b>	Councilman J Archibald, Councilman R Dellosso, Councilman P Doyle, Councilman L Fligor, Councilman J Hoffmann and Councilman R Sutton (6)
<b>Nays:</b>	None (0)
<b>Abstain:</b>	None (0)
<b>Absent:</b>	None (0)

I, Dwayne M. Harris, Municipal Clerk of the Borough of Atlantic Highlands, in the County of Monmouth, State of New Jersey, hereby certify this to be a true copy of the action of the Governing Body at its meeting held May 26, 2010. WITNESS my hand and the Seal of the Borough of Atlantic Highlands this 27th day of May, 2010.

/s/ Dwayne M. Harris

Dwayne M. Harris, RMC  
Municipal Clerk

Date of Mayor's Approval: May 27, 2010

/s/ Frederick J. Rast, III

Frederick J. Rast, III, Mayor