

**ORDINANCE NO 3 OF 2026**

**ORDINANCE OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, STATE OF NEW JERSEY, AMENDING ARTICLE VI, CHAPTERS 85-24, 85-25, AND 85-26, TITLED “AFFORDABLE HOUSING OVERLAY”, IN THE CODE OF THE CITY OF BRIGANTINE**

**WHEREAS**, the New Jersey Supreme Court and the New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and the New Jersey Fair Housing Act, i.e. N.J.S.A. 52:27D-301, et seq. that every municipality in New Jersey has an affirmative obligation to facilitate the provisions of affordable housing; and

**WHEREAS**, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, which amended the New Jersey Fair Housing Act (“Amended FHA”); and

**WHEREAS**, the City of Brigantine (“City”) filed a timely Fourth Round Declaratory Judgment action (“DJ Action”) with the Affordable Housing Dispute Resolution Program (“Program”) under Docket No. ATL-L-105-25, along with its binding resolution, on January 16, 2025; and

**WHEREAS**, the filing of the DJ Action gave the City automatic, continued immunity from all exclusionary zoning lawsuits, including builder’s remedy lawsuits, which is still in full force and effect; and

**WHEREAS**, the City did not receive any objections to its Present and Prospective Need numbers by February 28, 2025, resulting in the statutory automatic acceptance of the City’s Fourth Round obligations on March 1, 2025; and

**WHEREAS**, on March 27, 2025, the Program prepared an order fixing the City’s obligation and authorizing the City to proceed with preparing and adopting its Housing Element and Fair Share Plan (“HEFSP”) for the Fourth Round; and

**WHEREAS**, on June 30, 2025, the City filed its HEFSP; and

**WHEREAS**, on August 29, 2025, Fair Share Housing Center (“FSHC”) objected to the City’s HEFSP; and

**WHEREAS**, on January 16, 2026, the City entered into a mediation agreement with FSHC, authorized by the City Council by way of Resolution No. 2025-276; and

**WHEREAS**, as a result of the mediation agreement, the City amended its HEFSP (“Amended HEFSP”), which was approved by the City Planning Board on February 26, 2026; and

**WHEREAS**, the Amended HEFSP requires that certain existing overlay zones be amended; and

**WHEREAS**, the City Council wishes to amend the existing overlay zones pursuant to the Amended HEFSP; and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Brigantine, Atlantic County, New Jersey, that Chapter 85 of the Code of the City of Brigantine, titled “Affordable Housing Overlay,” is hereby amended with the following (underline and bold indicates an addition and ~~strikethrough and bold~~ indicates a deletion):

**ARTICLE I: §85-24 AMEND Chapter 85, Article II, Section 85-24 Affordable Housing Overlay: B3 Town Center (AHO-B3) Zone**

- A. Purpose. The purpose of the Affordable Housing Overlay B3 (AHO-B3) overlay zone is to create an incentive to redevelop property for inclusionary development. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). The affordable units will be for rent; the set-aside shall be ~~15%~~ 20%.
- B. Designated overlay area. The AHO-B3 Zone will encompass a portion of the B3 (Business) Zone. This district will be the focus of an overlay zone with residential uses over existing

commercial. This zone contains a shopping area (Town Center) that is located between Harbor Beach Boulevard, 38th Street, Bayshore Avenue and Amhurst Avenue (Block 3804, Lot 1). The overlay zone at this shopping center will provide for three residential floors above commercial. There will be a ~~fifteen-percent~~ twenty-percent set-aside for affordable family rental units with 13% of the affordable units for very-low-income households. The underlying B-1 Zone, its permitted uses, area and bulk requirements shall remain unchanged unless the overlay district option for affordable housing is implemented by the property owner(s) or developer.

C. Permitted uses: mixed use, commercial first floor with residential above.

D. Schedule of Area and Bulk Requirements.

- (1) Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
- (2) Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
- (3) Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.
- (4) Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
  - (a) The developer shall install, at his sole expense, the following minimum site improvements: streets, accessways, off-street parking areas, sidewalks, streetlighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
  - (b) All utilities shall be installed underground within the mixed-use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.
- (5) Parking.
  - (a) On-site parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
  - (b) Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine on-site parking requirements.
- (6) Solid waste disposal areas.
  - (a) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine, including any ordinance in reference to dumpsters.

- (b) Solid waste disposal areas shall be fully accessible to service vehicles.
  - (c) Solid waste disposal areas shall be maintained in a clean and orderly condition at all times.
  - (d) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
  - (e) Disposal areas and all facilities shall be provided and maintained by the owner of the development.
- (7) Public safety considerations.
- (a) All multifamily developments shall address the following public safety issues within the application for development:
    - [1] Emergency access routes for police, fire and ambulance vehicles.
    - [2] Architectural techniques utilized to enhance the security of the development's occupants.
  - (b) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

**ARTICLE II: §85-25 AMEND Chapter 85, Article II, Section 85-25 Affordable Housing Overlay: B1A Town Center (AHO-B1A) Zone**

- A. Purpose. The purpose of the Affordable Housing Overlay B1A (AHO-B1A) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). The affordable units will be for rent; the set-aside shall be ~~15%~~ **20%**.
- B. Designated overlay area. The AHO-B1A Zone will encompass a portion of the B1A (Business) Zone. This district will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail store (former CVS Store) that is located along Brigantine Avenue and is listed on the Tax Map as Block 806, Lot 1. The overlay zone at this location will provide for up to three residential floors. There will be a ~~fifteen-percent~~ **twenty-percent** set-aside for affordable family rental units with 13% of the affordable units for very-low-income households. The underlying B1A Zone, its permitted uses, area and bulk requirements shall remain unchanged unless the overlay district option for affordable housing is implemented by the property owner(s) or developer.
- C. Permitted uses: mixed use, commercial first floor with residential above.
- D. Schedule of Area and Bulk Requirements.
  - (1) Lot area. The minimum lot area shall be 24,000 square feet.
  - (2) Lot frontage. The minimum frontage shall be based on the underlying B1A lot frontage requirements.
  - (3) Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B1A District.

- (4) Density: 20 dwelling units per acre.
- (5) Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
  - (a) The developer shall install, at his sole expense, the following minimum site improvements: streets, accessways, off-street parking areas, sidewalks, streetlighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
  - (b) All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.
- (6) Parking.
  - (a) On-site parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
  - (b) Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine on-site parking requirements.
- (7) Solid waste disposal areas.
  - (a) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine, including any ordinance in reference to dumpsters.
  - (b) Solid waste disposal areas shall be fully accessible to service vehicles.
  - (c) Solid waste disposal areas shall be maintained in a clean and orderly condition at all times.
  - (d) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
  - (e) Disposal areas and all facilities shall be provided and maintained by the owner of the development.
- (8) Public safety considerations.
  - (a) All multifamily developments shall address the following public safety issues within the application for development:
    - [1] Emergency access routes for police, fire and ambulance vehicles.
    - [2] Architectural techniques utilized to enhance the security of the development's occupants.
  - (b) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

**ARTICLE III: AMEND Chapter 85, Article II, Section 85-26 Affordable Housing Overlay:  
B1 (AHO-B1) Zone**

- A. Purpose. The purpose of the Affordable Housing Overlay B1 (AHO-B1) overlay zone is to create an incentive to redevelop property for inclusionary development. The tract may be developed at a density of 20 units per acre. The density is predicated on a set-aside for affordable housing (low- and moderate-income housing). The affordable units will be for rent; the set-aside shall be ~~15%~~ 20%.
- B. Designated overlay area. The AHO-B1 Zone will encompass a portion of the B1 (Business) Zone. This district will be the focus of an overlay zone with residential uses over existing commercial. This zone contains an existing commercial retail and service uses that are located along Atlantic-Brigantine Boulevard and is listed on the Tax Map as Block 3701, Lots 1-9 and Block 3702, Lots 1-9. The overlay zone at this location will provide for up to three residential floors above the existing or new commercial uses. There will be a ~~fifteen-percent~~ twenty-percent set-aside for affordable family rental units with 13% of the affordable units for very-low-income households. The underlying B1 Zone, its permitted uses, area and bulk requirements shall remain unchanged unless the overlay district option for affordable housing is implemented by the property owner(s) or developer.
- C. Permitted uses: mixed use, commercial first floor with residential above.
- D. Schedule of Area and Bulk Requirements.
- (1) Lot area. The minimum lot area shall be based on the underlying B-1 lot size requirements.
  - (2) Lot frontage. The minimum frontage shall be based on the underlying B-1 lot frontage requirements.
  - (3) Perimeter setbacks. The minimum perimeter setback shall be based on the minimum setbacks as outlined in the underlying B-1 District.
  - (4) Density: 20 dwelling units per acre.
  - (5) Public service. Every residential and commercial unit shall be served by public water and sanitary sewer, which, if required, shall be installed by and at the expense of the developer.
    - (a) The developer shall install, at his sole expense, the following minimum site improvements: streets, accessways, off-street parking areas, sidewalks, streetlighting, storm drainage facilities, landscaping and open space areas. These improvements shall be installed in accordance with this chapter unless a specific waiver is granted as provided for within the applicable standards or requirements. Whenever a developer is required to place catch basins as part of an approval, the Planning Board shall, in its discretion, require the developer to pay for and place a sign at each such catch basin setting forth the requirements and penalties of §§ 220-23 to 220-26 of the Code of the City of Brigantine.
    - (b) All utilities shall be installed underground within the mixed use development. These utilities shall include but not be limited to gas, television cable, telephone, and electric.
  - (6) Parking.
    - (a) On-site parking for the residential component of the development in accordance with the Residential Site Improvement Standards (RSIS).
    - (b) Parking for the commercial aspect of the development shall be provided in accordance with the City of Brigantine on-site parking requirements.

**(7) Solid waste disposal areas.**

- (a) All trash compactors, bins and areas of refuse storage and recyclable storage areas shall be located in a common area and in such a manner to be screened from the general view of the public and must comply with all other ordinances of the City of Brigantine including any ordinance in reference to dumpsters.
- (b) Solid waste disposal areas shall be fully accessible to service vehicles.
- (c) Solid waste disposal areas shall be maintained in a clean and orderly condition at all times.
- (d) Solid waste disposal areas shall be designed of a durable material consistent with the architectural theme of the development.
- (e) Disposal areas and all facilities shall be provided and maintained by the owner of the development.

**(8) Public safety considerations.**

- (a) All multifamily developments shall address the following public safety issues within the application for development:

[1] Emergency access routes for police, fire and ambulance vehicles.

[2] Architectural techniques utilized to enhance the security of the development's occupants.

- (b) All public safety facilities located in a project shall be kept unobstructed by parking and/or any other type of storage. No parking spaces shall be placed to obstruct access as approved by the Fire Chief and/or Police Chief of the City of Brigantine.

**ARTICLE IV. Repealer, Severability, and Effective Date.**

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

**ACTION ON INTRODUCTION:**

Motion made by: Deputy Mayor Bew

Motion seconded by: Councilman Lettieri

**VOTE ON INTRODUCTION:**

Deputy Mayor Bew:  Yes  No  Abstain  Not Present

Councilman Lettieri:  Yes  No  Abstain  Not Present  
 Councilman Haney:  Yes  No  Abstain  Not Present  
 Councilman Virgilio:  Yes  No  Abstain  Not Present  
 Councilman Kane:  Yes  No  Abstain  Not Present  
 Councilman Riordan:  Yes  No  Abstain  Not Present  
 Mayor Sera:  Yes  No  Abstain  Not Present

**ACTION ON ADOPTION (after public hearing)**

Motion made by: Councilman Haney  
 Motion seconded by: Councilman Lettieri

**VOTE ON ADOPTION:**

Deputy Mayor Bew:  Yes  No  Abstain  Not Present  
 Councilman Lettieri:  Yes  No  Abstain  Not Present  
 Councilman Haney:  Yes  No  Abstain  Not Present  
 Councilman Virgilio:  Yes  No  Abstain  Not Present  
 Councilman Kane:  Yes  No  Abstain  Not Present  
 Councilman Riordan:  Yes  No  Abstain  Not Present  
 Mayor Sera:  Yes  No  Abstain  Not Present

I certify that this ordinance was introduced at a properly advertised public meeting on the 18<sup>th</sup> of February, 2026, published pursuant to law and the subject of a second reading and public hearing on March 4, 2026 prior to final adoption.

Christine Murray  
 Christine Murray, Acting City Clerk