

ORDINANCE 28 -2021

BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY

AN ORDINANCE OF THE BOROUGH OF EATONTOWN AMENDING CHAPTER 89, "LAND USE", ARTICLE VII "AREA, BULK AND USE REQUIREMENTS", SECTION 89-51 OF THE BOROUGH CODE ENTITLED "BILLBOARDS" CONFIRMING THAT BILLBOARDS ARE NOT A PERMITTED USE AND ONLY ALLOWING FOR THE UPGRADE OF PRE-EXISTING BILLBOARDS IN CERTAIN ZONES

WHEREAS, the Borough Council adopted Ordinance 10-2017 amending Section 89-51 of the Borough Code providing that billboards are permitted as a conditional use for properties fronting on State Highway 35 within the B-2 and B-5 zones under the limited circumstance where the proposed billboard is a replacement of an existing billboard ; and

WHEREAS, the New Jersey Appellate Division recently concluded that in order to obtain approval of a billboard with a deviation or variance from the standards set forth in 89-51 of the Borough Code, any such variance should be reviewed by the appropriate land use board as a (d)(3) conditional use variance rather than a (d)(1) prohibited use variance under N.J.S.A. 40:55D-70; and

WHEREAS, the Borough Council wants to reiterate and restate its intent that billboards are specifically prohibited in all zoning districts within the Borough and that billboards may only be upgraded in the B-2 and B-5 zones on properties fronting State Highway 35 subject to the conditions outlined in the ordinance to ensure that any variance sought from those requirements would be subject to a (d)(1) prohibit use variance.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Eatontown, County of Monmouth and State of New Jersey that the Code of the Borough of Eatontown, Chapter 89 "land Use, Article VII "Area, Bulk and Use Requirements," Section 89-51 "Billboards" is hereby amended as follows:

(additions are underlined deletions are ~~stricken~~):

§ 89-51

~~Billboards shall be permitted as a conditional use for those properties fronting on State Highway 35 located in the B-2 and B-5 Zones, subject to the following conditions:~~

Billboards are specifically prohibited throughout all zoning districts within the Borough and, as such, any request for a billboard shall be governed by the provisions of N.J.S.A. 40:55D-70(d)(1). Any existing Billboard within the B-2 and B-5 zoning districts which pre-dates this Ordinance, may be upgraded if, and only if, they are located upon properties fronting on State Highway 35 and meet the following conditions which shall not be read as making new billboards a conditional use within the B-2 and B-5 zoning districts, as they shall be specifically prohibited with requests for same being governed by N.J.S.A. 40:55D-70(d)(1), and instead should only be read as providing a method for pre-existing billboards in the aforesaid locations to be upgraded for aesthetical reasons:

[Subsections A-L-No Changes].

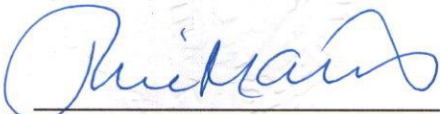
BE IT FURTHER ORDAINED, that

- A. All other Ordinances or provisions of the Code of the Borough of Eatontown or parts thereof, which are inconsistent with any provisions in this Ordinance, are hereby repealed to the extent of such conflict or inconsistency.
- B. If any provision or portion of this Chapter is held to be unconstitutional, preempted by Federal or State Law or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.
- C. This Ordinance shall take effect upon its passage and publication as required by law.

Date INTRODUCED: October 27, 2021

Date ADOPTED: December 8, 2021

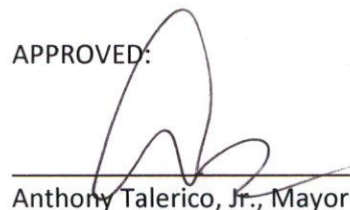
ATTEST:



Julie Martin, RMC, Municipal Clerk

Date: 12/9/2021

APPROVED:



Anthony Talerico, Jr., Mayor