

**HOUSING ELEMENT AND FAIR SHARE PLAN
FOR 2025-2035
BOROUGH OF MOUNTAIN LAKES, NJ**

Prepared for:

Planning Board
Borough of Mountain Lakes
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Mountain Lakes, N.J. 07046

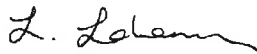
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The original copy of this document was signed and sealed
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II. Affordable Housing in New Jersey and Mountain Lakes

Mount Laurel I and Mount Laurel II

In 1975 the Supreme Court of New Jersey in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975), ruled that the developing municipalities in the State of New Jersey exercising their zoning power, in general, had a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low- and moderate-income housing needs. In 1983, the Supreme Court refined that constitutional obligation in South Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983), to apply to those municipalities having any portion of their boundaries within the growth area as shown on the State Development Guide Plan.

Fair Housing Act (1985) and COAH Rounds One and Two

In 1985, the New Jersey Legislature adopted, and the Governor signed, the Fair Housing Act N.J.S.A. 52:2D-301, et seq. ("FHA") which transformed the judicial doctrine that became known as the "Mount Laurel doctrine" into a statutory one and provided an alternative administrative process in which municipalities could elect to participate in order to establish a Housing Element and Fair Share Plan ("HEFSP") that would satisfy its constitutional obligation by creating an administrative agency known as the Council on Affordable Housing ("COAH") to develop regulations to define the obligation and implement it. COAH proceeded to adopt regulations for First Round obligations applicable from 1987 to 1993 and Second Round obligations that created a cumulative obligation from 1987 to 1999.

During the Prior Round, Mountain Lakes undertook a vacant land adjustment ("VLA") pursuant to N.J.A.C. 5:93-4.2 of COAH's Second Round rules. It was determined that Mountain Lakes' had a realistic development potential ("RDP") of 18 units. In addition to addressing its RDP, pursuant to N.J.A.C. 5:93-4.1(b), "when a municipality seeks a vacant land adjustment the municipality shall provide a response toward the "unmet need" of the obligation not addressed by the RDP. In other words, the "unmet need" is the difference between the RDP and the Prior Round obligations. Therefore, if the Borough's Prior Round obligation is 80 units and its RDP is 18 units then its unmet need is 80 less 18, i.e., 62 units.

COAH Round Three

COAH first proposed Third Round substantive and procedural rules in 2003, but due to multiple legal challenges, these rules were not adopted until 2008. However, the Third Round rules adopted in 2008 were challenged in an appeal entitled In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2010) (the "2010 Case"). In October 2010, the Appellate Division determined, among other things, that the methodology in the rules adopted in 2008 was invalid and that COAH should adopt regulations utilizing methodologies similar to the ones utilized in the First and Second Rounds, i.e. 1987-1999. In 2013, the Supreme Court of New Jersey affirmed the Appellate Division's invalidation of the third iteration of the Third Round regulations, sustained their determination that the growth share methodology was invalid, and directed COAH to adopt new regulations based upon the methodology utilized in the First and Second Rounds, In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council

by David N. Kinsey¹ (the "Kinsey Report") as adjusted. Accordingly, the Borough of Mountain Lakes' affordable housing obligation for the Third Round was as follows: Present Need Obligation: 1 unit; Prior Round Obligation (1987-1999): 80 units; and Third Round Prospective Need Obligation (1999-2025)²: 271 units.

To address its Third Round obligation, the Borough also sought a vacant land adjustment pursuant to N.J.A.C. 5:93-4.2. All of the current vacant sites in the Borough were inventoried and the resulting analysis revealed that the Borough had a Third Round RDP of 17 units. The Third Round unmet need of 254 units (i.e., 271-17=254) plus the remaining Prior Round unmet need of 62 units results in a total unmet need of 316 units.

The Borough adopted an Amended Housing Element and Fair Share Plan ("Amended HEFSP" or "Plan") on April 25, 2019 pursuant to the terms of the agreement reached between the Borough and FSHC. The Borough, through the adoption and implementation of the Amended HEFSP satisfied its obligations under the Mt. Laurel doctrine and Fair Housing Act for the Prior Round (1987-1999) and Third Round (1999-2025).

Amended Fair Housing Act (2024) and Fourth Round (2025-2035)

On March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act"). The Amended FHA requires the New Jersey Department of Community Affairs ("DCA") to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024 based upon the criteria of the Amended FHA. DCA issued a report on October 18, 2024 (the "DCA Report") wherein it reported its nonbinding estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Amended FHA. The DCA Report calculated Mountain Lakes' Fourth Round (2025-2035) fair share obligation as follows: a Present Need (Rehabilitation) Obligation of 0; and a Prospective Need (New Construction) Obligation of 267 units.

Per the Amended FHA, each municipality is required to determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in the Amended FHA, and adopt a binding resolution describing the basis for the determination and binding the municipality to adopt a housing element and fair share plan based on that determination. Each municipality was required to adopt a binding resolution no later than January 31, 2025 setting forth that municipality's present and prospective fair share obligation. A declaratory judgment action was required to be filed within forty-eight (48) hours of the adoption of the aforementioned binding resolution. The filing of a declaratory judgment action is required in order to protect the municipality from exclusionary zoning litigation and protect the municipality from losing its immunity from said litigation.

¹ David N. Kinsey, PhD, PP, FAICP, "New Jersey Low and Moderate Income Housing Obligations for 1999-2025 Calculated Using the NJ COAH Prior Round (1987-1999) Methodology, May 2016.

² The Third Round Prospective Need includes the Gap Period Present Need which is a measure of households formed from 1999-2015 that need affordable housing. The Gap Period Present Need was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed by Various Municipalities, 227 N.J. 508 (2017).

III. Housing Element/ Fair Share Plan Requirements

In accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.), a municipal Master Plan must include a housing element as the foundation for the municipal zoning ordinance. Pursuant to the Fair Housing Act, a municipality's housing element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing. The housing element must contain at least the following, as per the FHA at N.J.S.A. 52:27D-310:

- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low- and moderate-income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development of lands;
- An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share of low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing; and
- A consideration of the lands most appropriate for construction of low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing; and
- An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, pursuant to N.J.S.A. 52:27D-329.20f.(1);
- For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlandsconforming municipalities. This analysis shall include consideration of the municipality's most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and
- An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

IV. Housing Stock and Demographic Analysis

Housing Stock Inventory

In 2023, there were 1,451 housing units in Mountain Lakes, of which 33, or approximately 2 percent, were vacant. Of the 1,418 occupied units, 97 percent were owner occupied and close to 3 percent were renter occupied. Table 1, Housing Units by Occupancy Status, 2023, illustrates this occupancy status.

Table 1. Housing Units by Occupancy Status, 2023

	Housing Units	Owner Occupied	Renter Occupied
Occupied	1,418	1,377	41
Vacant	33	-	-
Total	1,451	-	-

Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)

Approximately 91 percent of the total housing stock is comprised of single-family detached units. Structures with three or more units make up 0.7% percent of the total housing stock. See Table 2, Housing Units by Number of Units in Structure, 2023, for a detailed explanation of the housing units.

Table 2. Housing Units by Number of Units in Structure, 2023

Number of Units	Total	Percent
1, Detached	1,313	90.5%
1, Attached	128	8.8%
2	0	0%
3 or 4	0	0%
5 to 9	10	0.7%
10 to 19	0	0%
20+	0	0%
Mobile Home	0	0%
Other	0	0%
Total	1,451	100%

Source: American Community Survey, 2019-2023 (Table DP04 Selected Housing Characteristics)

Table 3, Housing Units by Age, 2023, illustrates the age of the Borough's housing stock. Approximately 40 percent of the Borough's housing units were constructed prior to 1940, whereas only 12 percent were constructed in 2000 or later, of which of zero units were constructed in 2020 or later. A significant portion of the Mountain Lakes' housing units (i.e., 337 homes or 23 percent of the Borough's housing stock) were constructed between 1940 and 1959.

Tables 5 and 6, Housing Values, Owner Occupied, 2013 and 2023, respectively, show that the median housing value of owner-occupied housing in Mountain Lakes increased by almost 12 percent between 2013 and 2023. During this same time period, the median value in Morris County increased by almost 29 percent. In 2013, Mountain Lakes' median housing value of \$820,500 was close to 62 percent higher than that of Morris County (\$432,400). In 2023, Mountain Lakes' median housing value of owner occupied units (\$915,100) was almost 49 percent higher than that of Morris County (\$557,000).

Table 5. Housing Values, Owner Occupied, 2013

Housing Value	Number in Mountain Lakes	Percent in Mountain Lakes	Number in Morris County	Percent in Morris County
Less than \$50,000	8	0.7%	2,083	1.5%
\$50,000 to \$99,999	6	0.5%	1,406	1.0%
\$100,000 to \$149,999	8	0.7%	1,311	1.0%
\$150,000 to \$199,999	0	0%	3,346	2.5%
\$200,000 to \$299,999	0	0%	18,812	13.8%
\$300,000 to \$499,999	113	9.8%	58,230	42.7%
\$500,000 to \$999,999	660	57.1%	43,837	32.2%
\$1,000,000 or more	360	31.2%	7,271	5.3%
Total	1,155	100%	136,296	100%
2013 Median Value	\$820,500		\$432,400	

Source: American Community Survey, 2009-2013 (Table DP04 Selected Housing Characteristics)

In 2023, 22 percent of Mountain Lakes owner occupied households contributed thirty percent or more of their income towards monthly housing costs, whereas 54 percent contributed less than twenty percent of their income towards monthly housing costs. See Table 8, Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Owner Occupied Housing Units, 2023, for further information.

Table 8. Monthly Housing Costs as Percentage of Household Income in the Past 12 Months – Owner Occupied Housing Units, 2023

	Less than 20 percent	20 to 29 percent	30 percent or more
Less than \$20,000	0%	0%	2.0%
\$20,000 - \$34,999	0%	0%	0.7%
\$35,000 - \$49,999	0%	0%	0.7%
\$50,000 - \$74,999	0%	0%	4.6%
\$75,000 or more	54.1%	23.9%	14.0%
Total	54.1%	23.9%	22.0%
Zero or Negative Income	0%		

Source: American Community Survey, 2019-2023 (Table S2503 Financial Characteristics)

In 2023, almost 59 percent of Mountain Lakes renter occupied housing units contributed more than thirty percent of their income towards monthly rental costs. No renter occupied housing units contributed less than twenty percent of their income toward monthly rental costs. A substantial portion of renter occupied units contributed no cash rent (i.e., close to 27 percent). See Table 9, Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Renter Occupied Housing Units, 2023, for further information.

Table 9. Monthly Housing Costs as a Percentage of Household Income in the Past 12 Months – Renter Occupied Housing Units, 2023

	Less than 20 percent	20 to 29 percent	30 percent or more
Less than \$20,000	0%	0%	0%
\$20,000 - \$34,999	0%	0%	26.8%
\$35,000 - \$49,999	0%	0%	0%
\$50,000 - \$74,999	0%	0%	0%
\$75,000 or more	0%	14.6%	31.7%
Total	0%	14.6%	58.5%
Zero or Negative Income	0%		
No Cash Rent	26.8%		

Source: American Community Survey, 2019-2023 (Table S2503 Financial Characteristics)

There are no housing units in Mountain Lakes that are overcrowded (defined as having 1.01 or more persons per room). 13 housing units lack complete plumbing facilities, 13 lack complete kitchen facilities, and 11 have no telephone service available. See Table 10, Selected Quality Indicators, Occupied Housing Stock, 2023, for further information.

Table 12. Comparison of Age Distribution, 2010-2020

Age Group	2010	Percent	2020	Percent	Percent Change
Under 5	200	4.8%	198	4.4%	-1.0%
5-14	933	22.4%	811	18.1%	-13.1%
15-24	516	12.4%	737	16.5%	42.8%
25-34	100	2.4%	206	4.6%	106.0%
35-44	597	14.4%	467	10.4%	-21.8%
45-54	904	21.7%	873	19.5%	-3.4%
55-64	491	11.8%	640	14.3%	30.4%
65-74	247	5.9%	307	6.9%	24.3%
75+	172	4.1%	233	5.2%	35.5%
Total	4160	100.0%	4472	100.0%	-
Median Age	41.8		41.7		-

Source: 2010 and 2020 U.S. Census (2020 - Table DP1 Profile Of General Population And Housing Characteristics)

Household Characteristics

A household is defined by the U.S. Census Bureau as those persons who occupy a single room or group of rooms constituting a housing unit; however, these persons may or may not be related. As a subset of households, a family is identified as a group of persons including a householder and one or more persons related by blood, marriage or adoption all living in the same household. In 2023, there were 1,418 households in Mountain Lakes, of which 1,217 were family households and 201 were nonfamily households. Approximately 77 percent of the households are comprised of married couples with or without children. The average household size was 3.20 and the average family size was 3.50. (Source: ACS 2019-2023, Table S1101 & S2501).

Income Characteristics

Households in Mountain Lakes have significantly higher median income than households county-wide. Notably, the vast majority of Mountain Lakes households have incomes of \$150,000 or more (i.e. 80 percent), whereas only 45 percent of Morris County households have the same income level. Table 13, Household Income in the Past 12 Months for Mountain Lakes and Morris County Households, 2023, further illustrates these findings by noting the number of households in each of the income categories.

Table 15, Occupation of Civilian Employed Population 16 Years and Over, Mountain Lakes, 2023, identifies the occupations of the employed civilian labor force. While Mountain Lakes residents work in a variety of industries, nearly 79 percent of employed residents work in Management, Business, Science, and Arts-related occupations; close to 10 percent are employed in Sales and Office-related occupations; and 6 percent work in Natural Resources, Construction, and Maintenance-related occupations.

Table 15. Occupation of Civilian Employed Population 16 Years and Over, Mountain Lakes, 2023

Sector Jobs	Number	Percentage
Management, Business, Science, and Arts Occupations	1,649	78.5%
Service	93	4.4%
Sales and Office	208	9.9%
Natural Resources, Construction, and Maintenance	126	6.0%
Production, Transportation, and Material Moving	25	1.2%
Total	2,101	100%

Source: American Community Survey, 2019-2023 (Table DP03 Selected Economic Characteristics)

Table 16, Employment by Industry, Civilian Employed Population 16 Years and Over, Mountain Lakes, 2023, shows the distribution of employment by industry for employed Mountain Lakes residents. The three industries to capture the largest segments of the population were the Professional, Scientific, Management, Administrative, and Waste Management Services sector at 23 percent; the Financing, Insurance, Real Estate, Renting, and Leasing sector at 19 percent; and the Educational, Health and Social Services sector at close to 18 percent.

Assistance industries, contributing almost 13 percent and 11 percent respectively. Mountain Lakes increased in the total number of jobs between 2012 and 2022 (i.e., an increase of nearly 19 percent), although briefly decreasing between 2017 and 2022 by approximately 9 percent. The industry which gained the most total jobs between 2012 and 2022 was the Administration & Support, Waste Management and Remediation sector by 454 jobs (i.e. approximately 1195 percent increase). The industry which lost the most total jobs between 2012 and 2022 was the Other Services (excluding Public Administration) sector by 101 jobs (i.e. nearly 21 percent decrease). See Table 18, Private Sector Employment in Mountain Lakes by Industry Sector, 2012, 2017, 2022 for details.

1 & 2 Family	7	1	16	13	1	4	3	22	22	2	0	91
Multifamily	0	0	0	0	0	0	0	0	0	0	0	0
Mixed Use	0	0	0	0	0	0	0	0	0	0	0	0
Total	7	1	16	13	1	4	3	22	22	2	0	91

Source: New Jersey Construction Reporter

Although the Borough has seen the construction of predominantly one-family homes over the last decade, it is projected that there will be some multifamily development in the coming years through redevelopment of sites in the affordable housing overlay zones along Route 46.

NONRESIDENTIAL TRENDS AND PROJECTIONS

According to the New Jersey Department of Community Affairs, between 2013 and 2023, Mountain Lakes issued certificates of occupancy for a total of ±206,546 square feet of non-residential building space. See Table 20, Non-Residential Certificates of Occupancy, 2013-2023, for additional details. The majority of the non-residential growth can be attributed to:

- 155,836 square feet of institutional space for which a certificate of occupancy was issued in 2021;
- 42,014 square feet of educational space for which a certificate of occupancy was issued in 2020;
- 5,585 square feet of office space for which a certificate of occupancy was issued in 2023.

V. Mountain Lakes Affordable Housing Plan

Prior Round Obligation (1987-1999)

PRIOR ROUND PROSPECTIVE NEED OBLIGATION AND REALISTIC DEVELOPMENT POTENTIAL

The Supreme Court in the 2015 Case preserved Prior Round obligations established in N.J.A.C. 5:93 et seq. Mountain Lakes' Prior Round obligation was 80 units. However, COAH granted the Borough a vacant land adjustment lowering the new construction portion of the obligation to the Borough's realistic development potential (RDP) of 18 units with an unmet need of 62 units.

To address its Prior Round obligation, the Borough enacted zoning for the inclusionary "Fusee" site (Block 88, Lots 18.01-18.44) to permit the construction of 34 multifamily dwellings, including six affordable units. These affordable units are complete and the project is known as Legacy at Mountain Lakes. Additionally, the Borough paid for a 12-unit Regional Contribution Agreement ("R.C.A.") with the City of Orange in 1997.

PRIOR ROUND UNMET NEED

In 1997, to address the remaining "unmet need" Mountain Lakes established a Borough-wide Affordable Housing Overlay Zone to capture future affordable housing (a 20% set aside) from any residential development comprised of five or more units. COAH granted substantive certification to the Borough on March 5, 1997 and the terms and requirements of Prior Round Substantive Certification have been met and zoning addressing the unmet need remains in place.

Third Round Prospective Need Obligation (1999-2025)

THIRD ROUND PROSPECTIVE NEED OBLIGATION AND REALISTIC DEVELOPMENT POTENTIAL

Per its executed Third Round Settlement Agreement with FSHC (see **Appendix C**), Mountain Lakes had a Third Round Prospective Need Obligation (1999-2025) of 271 units. Per N.J.A.C. 5:93-4.2, the Borough requested an adjustment to available land capacity, i.e., a vacant land adjustment. Based on the vacant land adjustment for Mountain Lakes, the Borough's Third Round RDP was 17 units. The Third Round unmet need was 254 units (i.e., $271-17=254$) plus the remaining Prior Round unmet need of 62 units results in a total unmet need of 316 units.

The Borough addressed its Third Round RDP at three inclusionary sites: 2 units at the Fusee site/Legacy at Mountain Lakes (Block 88, Lots 18.01-18.44); 6 affordable family sale units on the King of Kings Backlands Lot (Block 116, Lot 3.0X) developed by Pulte Homes and known as the Enclave at Mountain Lakes; and 4 Medicaid beds at the Sunrise Assisted Living Facility at 1 Bloomfield Avenue (Block 118.04, Lot 2.01).

As part of its Third Round Plan, the Borough implemented an accessory apartment program (See **Appendix D** for details on the accessory apartment program) to encourage residents to establish five units of affordable housing for occupancy by low and moderate income households. However, to date, no homeowners have participated in the program. However, in 2023, four affordable units were developed by GFM Properties at 367 Bloomfield Avenue (Block 9, Lot 3) for very low-income households. The Borough is eligible for 4 rental bonus credits for the 4 units. See **Appendix E** for the deed restriction for 367 Bloomfield Avenue.

Table 22. Overlay Zones

Block	Lot	Address	Zone	Acreage	Density (dwelling units/ acre)	Total Units	Set- Aside (%)	Potential Affordable Units
7	7	333 Route 46	OL-1/ MF-AHO	16.2	14	226	15/20	34/45
7	8	415 Boulevard	OL-2/ MF-AHO	3.04	14	42	15/20	6/8
7	9	425 Boulevard	OL-2/ MF-AHO	1.8	14	25	15/20	4/5
6	14	420 Boulevard	OL-2/ MF-AHO	5.87	14	82	15/20	12/16
116	5.01-5.52	115 Route 46	OL-2/ MF-AHO	5.5	14	77	15/20	12/15
116	6	105 Route 46	OL-2/ MF-AHO	11.7	14	164	15/20	25/33
								93/122

The Borough also adopted an ordinance requiring a mandatory affordable set-aside for all new multifamily residential developments of five units or more created through any municipal rezoning; Zoning Board of Adjustment use or density variance; redevelopment plan or rehabilitation plan providing for redevelopment. This does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Mountain Lakes to grant such rezoning, variance or other relief. The set aside for rental developments shall be fifteen percent and the set aside for for-sale developments shall be twenty percent. The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. See **Appendix G** for a proposed revised Affordable Housing Ordinance which includes the existing mandatory set-aside but has been updated to reflect the December 2024 revisions to the Uniform Housing Affordability Controls.

Fourth Round Obligation (2025-2035)

DCA proposed non-binding Prospective Need obligation released on October 20, 2024 for Mountain Lakes was 267 units. Pursuant to the Amended FHA, on January 27, 2025 the Borough Council adopted a binding resolution (Resolution #76-25) adopting the Borough's Fair Share Affordable Housing Obligation for the Fourth Round. The resolution stated the Borough's affordable housing obligations for the Fourth Round to include a Present Need of 0 units and a Prospective Need of 146 units. Subsequently, the Borough filed its resolution of participation before the Affordable Housing Dispute Resolution Program (the "Program") on January 28, 2025 (Docket No. MRS-L-244-25), in accordance with the requirements of N.J.S.A. 52:27D-301, et seq, and the timeframes set forth in Directive #14-24.

In accordance with the timeframes set forth in the Amended FHA and the Directive, FSHC filed an objection to Mountain Lakes' resolution on February 28, 2025 contending that the Borough improperly calculated its Prospective Need obligations and should be required to utilize the calculation prepared by FSHC in its February 28, 2025 report, setting the Prospective Need obligation at 234.

The Borough and FSHC engaged in the mediation process provided by the Program and conferred and reached an accord setting forth Mountain Lakes' Fourth Round fair share obligation as follows (**Appendix H** provides a copy of the signed Mediation Agreement between the Borough and FSHC):

- **Present Need – 0 units**
- **Prospective Need – 190 units**

PROPOSED FOURTH ROUND COMPLIANCE MECHANISMS

Although the Borough has a RDP of 0 units, the Borough intends to expand its overlay zoning by creating a new overlay zone on Block 118.04/Lot 1. The parcel is approximately 5.44-acres and is located at 49 Bloomfield Avenue. It has frontage on a portion of Bloomfield Avenue leading to Route 46 westbound and is accessed from a separate portion of Bloomfield Avenue which runs behind Sunrise Assisted Living. It is currently improved with a 2-story office building constructed in 1980 and associated surface parking lot.

The overlay zone will permit the option to redevelop the site for townhouses and/or stacked townhouses at a density of 14 dwelling units per acre and a 20 percent affordable housing set aside. The zoning has the potential to provide up to 15 affordable housing units. The zoning requires that any affordable units comply with the Uniform Housing Affordability Controls at N.J.A.C. 5:80-26.1, as amended.

The site is currently mostly developed and Highlands conformance is not expected to inhibit the ability to redevelop the site for townhouses and/or stacked townhouses. The site is suitable, developable, and approvable for affordable housing as it has access to appropriate streets, is adjacent to other multi-family uses including the townhouses on Sherwood Drive and Sunrise Assisted Living, has adequate sewer and water capacity and infrastructure, and can be developed in accordance with the Residential Site Improvement Standards ("RSIS").

Draft zoning for this overlay is provided in the **Appendix I**. **Figure 1** shows an aerial location map of the proposed overlay.

VI. Appendixes:

Appendix A: Highlands Build-Out Analysis & Vacant Land Adjustment Methodology

Appendix B: Inventory and Maps of Parcels Investigated in Build-Out Analysis and Vacant Land Adjustment

Appendix C: Third Round Settlement Agreement

Appendix D: Existing Accessory Apartment Zoning

Appendix E: Deed Restrictions on Affordability for Block 9, Lot 3/ 367 Bloomfield Avenue

Appendix F: Existing Adopted Overlay Zones

Appendix G: Proposed Revisions to Affordable Housing Ordinance

Appendix H: Mediation Agreement with FSHC on Fourth Round Obligation

Appendix I: Proposed New Overlay Zone on Block 118.04, Lot 1/49 Bloomfield Avenue

Appendix J: Proposed Revisions to Development Fee Ordinance

Appendix K: Adopted Affirmative Marketing Plan

Appendix L: Resolution Appointing Administrative Agent

Appendix M: Spending Plan

Highlands Build-Out Analysis & Vacant Land Adjustment Analysis Methodology

Introduction

The Borough of Mountain Lakes seeks an adjustment of its prospective need obligation for the Fourth Round based on a lack of vacant land. Per P.L.2024, c.2 (C.52:27D-310.1), when computing a municipal adjustment regarding available land resources as part of the determination of a municipality's fair share of affordable housing, the municipality, may exclude the following vacant land:

- (a) any land that is owned by a local government entity that as of January 1, 1997, has adopted, prior to the institution of a lawsuit seeking a builder's remedy or prior to the filing of a petition for substantive certification of a housing element and fair share plan, a resolution authorizing an execution of agreement that the land be utilized for a public purpose other than housing;
- (b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land;
- (c) any vacant contiguous parcels of land in private ownership of a size which would accommodate fewer than five housing units based on appropriate standards pertaining to housing density;
- (d) historic and architecturally important sites listed on the State Register of Historic Places or National Register of Historic Places prior to the date of filing a housing element and fair share plan pursuant to section 3 of P.L.2024, c.2 (C.52:27D-304.1) or initiation of an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313);
- (e) agricultural lands when the development rights to these lands have been purchased or restricted by covenant;
- (f) sites designated for active recreation that are designated for recreational purposes in the municipal master plan; and
- (g) environmentally sensitive lands where development is prohibited by any State or federal agency, including, but not limited to, the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), for lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands -conforming municipalities.

No municipality shall be required to utilize for affordable housing purposes land that is excluded from being designated as vacant land.

The Borough is seeking an adjustment adjustment of its prospective need obligations for the Fourth Round based on a lack of vacant land pursuant to P.L.2024, c.2 (C.52:27D-304.1) including P.L.2024, c.2 (C.52:27D-304.1(g)).

- Any parcels identified as developable above but were subsequently determined to be developed, not vacant, or otherwise ineligible for development;
- Parcels with over 95% open water; or
- Parcels over 0.83 acre in area which are 95% preserved; or
- Parcels 95% in the Preservation Area; or
- Parcels with MODIV property class 2 or 3A and 3b combined; or
- Parcels with MODIV property class codes 4A, 4B, 4C, 15A, 15B, 15D, 15E; or
- Parcels with a public or other MODIV property class code 15C or 15F where 0.83 acres or less is available for development after the existing building footprint area (Microsoft, 2018) is subtracted from the maximum building coverage (based on the maximum building coverage percentage permitted by local zoning); or
- Parcel with a public or other MODIV property class code 15C or 15F where 0.83 acres or less is available for development after the existing impervious surface area is subtracted from the maximum impervious surface lot coverage (based on the impervious lot coverage percentage permitted by local zoning).

Step 4. Next, the Highlands assigned a septic density to each parcel. Where developable lots are not assigned a septic density, they were assumed to be able to be serviced by public wastewater. The following criteria were used:

- Sewer: Where a parcel was more than 5% or has more than 2,500 sq. ft. in a sewer service area, it is identified as being sewer eligible.
- Septic: Where a parcel is outside a sewer service area (less than 5% or 2,500 sq. ft. in a sewer service area) or the parcel contains any amount of Conservation and/or Protection Zone (based on the 2024 LUCZ).
- Additionally, the Highlands BOA eliminated parcels with a combined septic density greater than 0 units, but less than 5 units.

Step 5. Next, the Highlands identified Highlands resource constraints and overlayed them on each parcel. Where the overlayed resources left less than 0.83 acres developable area on a parcel, the parcel was considered not developable. The constraints used were based on the Highlands Affordable Housing RMP Amendment (2024) and include the following:

- Highlands Open Water and associated Highlands Open Water Buffers;
- Prime Groundwater Recharge Areas (or Municipally Important Groundwater Recharge Areas, as adopted);
- Severe Steep Slopes (20%+ slopes);
- Critical Habitat;
- Vernal Pools and associated 300-meter buffer;
- Natural Heritage Priority Sites; and/or
- Special Environmental Zone.

Step 6. The final output of the build-out update includes a dataset of 2024 parcels (Parcels and MOD-IV Composite of NJ downloaded from NJ-Office of Information Technology) with all the input information

Appendix A Table 1. Highlands Build-Out Analysis Rules for Exclusion

Code	Rule	Description
401	OPEN WATER	Parcels that are over 95% Open Water
402	PRESERVED	Parcels that are larger than 1 acre and are over 95% preserved
403	PRESERVATION AREA	Parcels that are 95% within the NJ Highlands Preservation Area
404	RESIDENTIAL DEVELOPED	Parcels where the following is a MODIV property class of: <ul style="list-style-type: none"> • 2- Residential; or • 3A- Farm (Regular)
405	EXCLUDE RAILROAD (5A, 5B)	Parcels with one of the following MODIV property classes: <ul style="list-style-type: none"> • 5A- Class I Railroad Property • 5B- Class II Railroad Property
406	PUBLIC EXCLUDE (15A, 15B, 15D, 15E)	Parcels with one of the following MODIV property classes: <ul style="list-style-type: none"> • 15A- Public School Property • 15B- Other School Property • 15D- Church and Charitable Property • 15D- Cemeteries and Graveyards
407	PUBLIC DEVELOPED BLD COV	Parcels with all of the following: <ul style="list-style-type: none"> • A MODIV property class of: <ul style="list-style-type: none"> ○ 15C- Public Property; or ○ 15F- Other Exempt • A ZONE_BLDG_COVERAGE acreage, minus 0.83 acres reserved as available for development less than the acreage of all existing buildings detected on the parcel using Microsoft Building Footprints
408	PUBLIC DEVELOPED LOT/IS COV	Parcels with all of the following: <ul style="list-style-type: none"> • A MODIV property class of: <ul style="list-style-type: none"> ○ 15C- Public Property; or ○ 15F- Other Exempt • A ONE_BLDG_COVERAGE acreage, minus 0.83 acres reserved as available for development less than the acreage of all existing impervious coverage surfaces detected on the parcel using Highlands Impervious Surfaces
504	INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS)	Parcels with both the following: <ul style="list-style-type: none"> • Combined Septic Density is greater than zero (>0 units) • Combined Septic Density is less than five (<5 units)
607	TOTALLY CONSTRAINED	Parcels where resource constraints cover the entire parcel, leaving less than 0.83 acres of developable land.

Source: Highlands Municipal Build-Out Update Prepared by the Highlands Water Protection and Planning Council in support of the Highlands Regional Master Plan; November 1, 2024.

Vacant Land Analysis

The Build-Out Analysis formed the basis of the Borough's Vacant Land Adjustment ("VLA") analysis undertaken pursuant to P.L.2024, c.2 (C.52:27D-304.1). The VLA augments the results of the Build-Out analysis with additional parcel specific information used to substantiate the exclusion of parcels based on the Amended FHA. Specifically, C.52:27D-304.1:

(b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land;

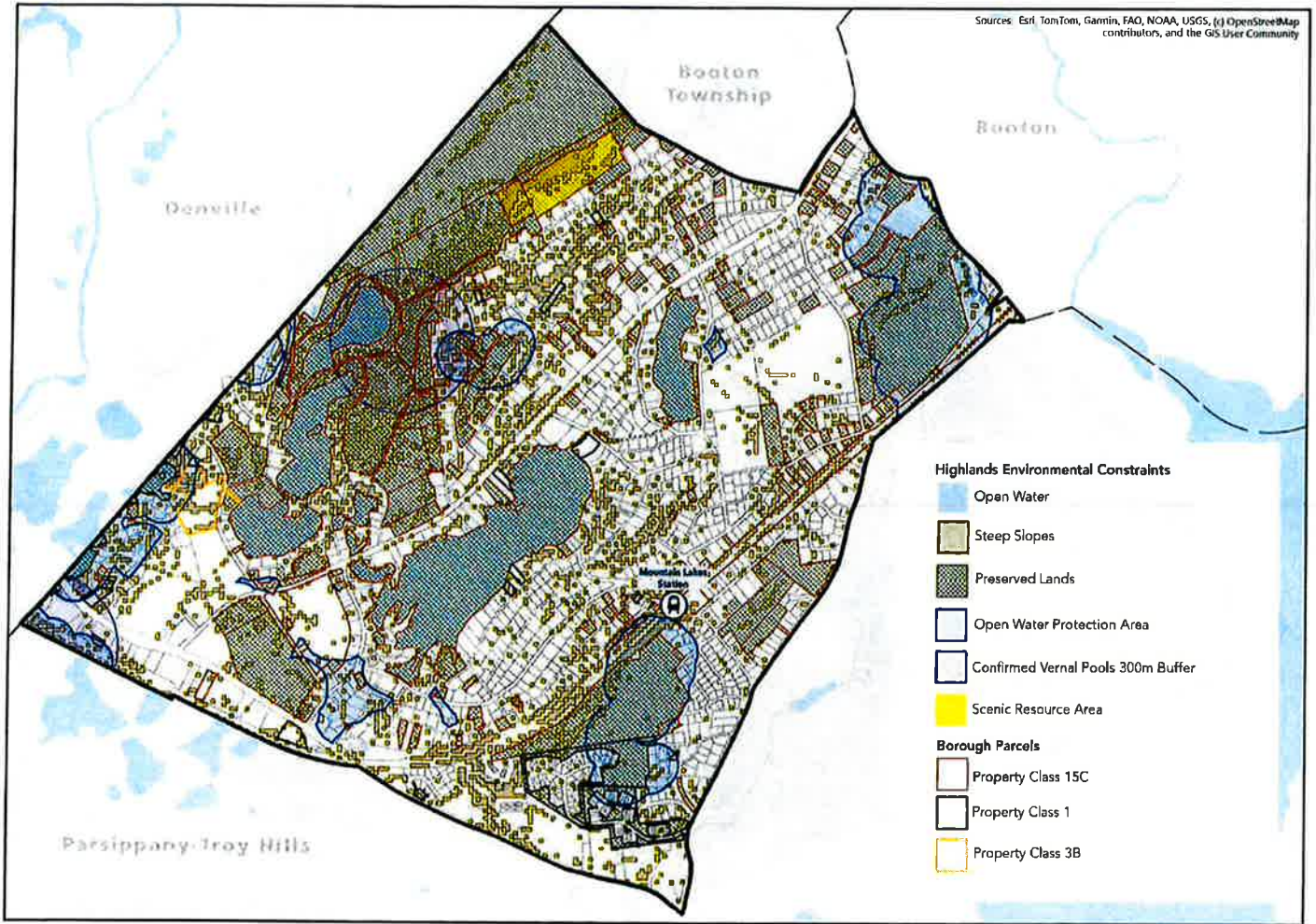
Appendix B: Inventory and Maps of Parcels Investigated in Build-Out Analysis and Vacant Land Adjustment

21	56	15C	005 NORTH POCONO RD	MOUNTAIN LAKES BOROUGH	C	0.562	0.567	0.000	12.085	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; lot is entirely encompassed by wetlands and within open water protection area
23	55	18	000 NORTH POCONO RD	MOUNTAIN LAKES BOROUGH	R AA	0.275	0.275	0.000	0.000	0.000	NO	0.000	(504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property lot is encompassed by wetlands and within open water protection area
23	39	15C	000 EAST SHORE RD	MOUNTAIN LAKES BOROUGH	C	1.978	1.978	0.000	0.000	0.000	NO	0.000	(402) PRESERVED (504) PUBLIC DEVELOPED LOT/5 COV (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present and lot is entirely within open water protection area
23	71	15C	005 NORTH POCONO RD	MOUNTAIN LAKES BOROUGH	R A	0.158	0.158	0.000	79.786	0.000	NO	0.000	(402) PRESERVED (504) PUBLIC DEVELOPED LOT/5 COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; lot is entirely within open water protection area
24	1	15C	009 NORTH POCONO RD	MOUNTAIN LAKES BOROUGH	C	0.592	0.592	0.000	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS)	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; open water protection area
24	14	1	000 NORTH POCONO RD	BUCKINGHAM, MICHAEL M/ANDREA P	R AA	0.115	0.000	0.115	100.007	0.115	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; remaining acreage < 0.83 acres
24	4	1	000 NORTH POCONO RD	BUCKINGHAM, MICHAEL M/ANDREA P	R AA	0.671	0.654	0.216	100.000	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; remaining acreage < 0.83 acres
26	1	15C	000 RATTLESNAKE MEADOW	MOUNTAIN LAKES BOROUGH	C	88.838	89.838	0.000	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present throughout the property
27	4	15C	031 CRESTVIEW RD	MOUNTAIN LAKES BOROUGH	C	2.426	2.421	0.004	3.366	2.436	NO	0.000	(402) PRESERVED (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
27	26	15C	000 CRESTVIEW RD	MOUNTAIN LAKES BOROUGH	C	5.869	5.869	0.000	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present throughout the property and entire property within open water protection area
27	16	15C	000 CRESTVIEW RD	MORRIS COUNTY PARK COMMISSION	R AA	15.281	15.225	0.056	0.857	1.812	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present and partially within open water protection area
28	13	15C	000 CRESTVIEW RD	MORRIS COUNTY PARK COMMISSION	C	3.947	3.945	0.002	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present and partially within open water protection area
28	9	15C	000 CRESTVIEW RD	MOUNTAIN LAKES BOROUGH	C	26.181	26.795	0.086	3.627	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property partially within open water protection area and vernal pool 300m protection buffer
29	1	15C	009 WEST SHORE RD	MOUNTAIN LAKES BOROUGH	C	12.750	12.750	0.000	14.392	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present throughout the property and property partially within open water protection area and vernal pool 300m protection buffer
29	2	15C	005 WEST SHORE RD	MOUNTAIN LAKES BOROUGH	C	2.028	1.848	0.180	100.000	0.000	NO	0.000	(402) PRESERVED (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present and partially within open water protection area
30	70	15C	000 BIRCH LN	MOUNTAIN LAKES BOROUGH	C	2.036	2.036	0.000	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property entirely within open water protection area and vernal pool 300m protection buffer
30	66	15C	000 WEST SHORE RD	MOUNTAIN LAKES BOROUGH	C	0.673	0.673	0.000	0.000	0.000	NO	0.000	(504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property entirely within open water protection area and vernal pool 300m protection buffer
30	1	15C	000 WEST SHORE RD	MOUNTAIN LAKES BOROUGH	C	9.992	9.992	0.000	8.091	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property partially within open water protection area and vernal pool 300m protection buffer
31	20	15C	000 WEST SHORE RD	MOUNTAIN LAKES BOROUGH	C	6.150	6.150	0.000	6.987	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property partially within open water protection area and vernal pool 300m protection buffer
32	1	15C	030 CRYSTAL RD	MOUNTAIN LAKES BOROUGH	C	21.853	21.173	0.691	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property partially within open water protection area and vernal pool 300m protection buffer
33	801	15C	000 BOULEVARD & NO. CRANE	MOUNTAIN LAKES BOROUGH	R A	0.012	0.012	0.000	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/5 COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; lot acreage < 0.83 acres
34	5	15C	311. WINDY	MOUNTAIN LAKES BOROUGH	R AA	3.255	3.186	0.109	2.970	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present and lot is partially within open water protection area; remaining lot acreage < 0.83 acres
35	1	15C	021 OVERLOOK RD	MOUNTAIN LAKES BOROUGH	R AA	6.280	6.125	0.155	1.380	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present and lot is partially within open water protection area; remaining lot acreage < 0.83 acres
36	1	15C	027 OVERLOOK RD	MOUNTAIN LAKES BOROUGH	C	4.021	4.003	0.019	0.000	0.000	NO	0.000	(402) PRESERVED (504) INSUFFICIENT SEPTIC DENSITY THRESHOLD (<5 UNITS) (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present and lot is partially within open water protection area; remaining lot acreage < 0.83 acres

54	39	15C	115 LAUREL HILL RD	MOUNTAIN LAKES BOROUGH	R-AA	0.543	0.805	0.118	100.000	0.323	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
56	12.02	15C	000 LAUREL HILL RD	MOUNTAIN LAKES BOROUGH	R-AA	0.297	0.747	0.000	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
56	58.01	15C	010 NORTH BRANCH RD	MOUNTAIN LAKES BOROUGH	R-AA	0.402	0.168	0.243	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
57	3	15C	097 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	0.412	0.396	0.076	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
58	30	15C	082 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	0.945	0.931	0.014	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present throughout the property and property partially within open water protection area
58	10	15C	129 BLVD	MOUNTAIN LAKES BOROUGH	R-AA	0.353	0.953	0.000	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present throughout the property and entirely partially within open water protection area
58	24	15C	FRACKBURY	MOUNTAIN LAKES BOROUGH	R-AA	0.384	0.184	0.000	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes and wetlands present throughout the property and entirely partially within open water protection area
59	46	15C	060 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	0.418	0.389	0.028	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
59	39	15C	010 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	1.047	1.009	0.038	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
60	5	15C	061 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	0.429	0.417	0.011	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
60	9	15C	051 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	0.433	0.348	0.085	100.000	0.433	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
60	27	15C	024 LAUREL HILL RD	MOUNTAIN LAKES BOROUGH	R-AA	0.661	0.608	0.053	100.000	0.661	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
60	13	15C	041 CORRI RD	MOUNTAIN LAKES BOROUGH	R-AA	0.793	0.749	0.043	100.000	0.793	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
61	25	15C	009 LOWELL AVE	MOUNTAIN LAKES BOROUGH	R-AA	0.690	0.662	0.028	100.000	0.690	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
61	31	15C	021 LOWELL AVE	MOUNTAIN LAKES BOROUGH	R-AA	0.593	0.531	0.062	100.000	0.593	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
61	38	15C	035 LOWELL AVE	MOUNTAIN LAKES BOROUGH	R-AA	0.434	0.405	0.028	100.000	0.434	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
61	45	15C	019 LOWELL AVE	MOUNTAIN LAKES BOROUGH	R-AA	0.561	0.475	0.086	100.000	0.561	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
62	38	15C	040 BLVD	MOUNTAIN LAKES BOROUGH	R-AA	0.505	0.488	0.016	100.000	0.505	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
62	33	15C	030 BLVD	MOUNTAIN LAKES BOROUGH	R-AA	0.713	0.713	0.000	100.000	0.713	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
62	25	15C	020 BLVD	MOUNTAIN LAKES BOROUGH	R-AA	0.827	0.765	0.062	100.000	0.827	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
62	70.01	15C	062 BLVD	MOUNTAIN LAKES BOROUGH	R-AA	0.239	0.195	0.044	100.000	0.239	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
63	17	15C	060 BLVD	MOUNTAIN LAKES BOROUGH	R-AA	0.791	0.604	0.187	100.000	0.791	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
63	11	15C	041 HANOVER RD	MOUNTAIN LAKES BOROUGH	R-AA	0.883	0.839	0.044	100.000	0.883	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
64	8	15C	059 MELROSE RD	MOUNTAIN LAKES BOROUGH	R-AA	0.247	0.050	0.198	100.000	0.247	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
64	11	15C	053 MELROSE RD	MOUNTAIN LAKES BOROUGH	R-AA	0.558	0.492	0.066	100.000	0.558	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present; property is partially within open water protection area
64	19	15C	040 HANOVER RD	MOUNTAIN LAKES BOROUGH	R-AA	0.641	0.536	0.106	100.000	0.641	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present
65	13	15C	001 MELROSE RD	MOUNTAIN LAKES BOROUGH	R-AA	0.729	0.729	0.000	100.000	0.729	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present; property is partially within open water protection area
66	16	15C	024 MELROSE RD	MOUNTAIN LAKES BOROUGH	R-AA	0.017	0.017	0.000	100.000	0.017	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
68	4	15C	075 KENILWORTH RD	MOUNTAIN LAKES BOROUGH	R-AA	0.727	0.000	0.727	100.000	0.727	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013
68	10	15C	061 KENILWORTH RD	MOUNTAIN LAKES BOROUGH	R-AA	2.602	2.739	0.063	100.000	2.602	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); wetlands present; property is within open water protection area
69	11	15C	064 KENILWORTH RD	MOUNTAIN LAKES BOROUGH	R-AA	2.703	2.703	0.000	100.000	0.000	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); wetlands present; property is within open water protection area
70	6	15C	100 KENILWORTH RD	MOUNTAIN LAKES BOROUGH	R-AA	0.902	0.902	0.000	100.000	0.902	NO	0.000	(409) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013

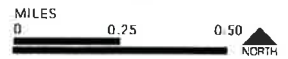
88	14	15C	078 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.395	0.135	0.000	100.000	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); property is entirely within open water protection area.
88	8	15C	085 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.386	0.077	0.309	100.000	0.000	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
88	27	15C	101 POWDEVILLE RD	MOUNTAIN LAKES BOROUGH	R-A	2.147	0.093	0.058	91.547	0.000	NO	0.000	(602) PRESERVED (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); steep slopes present.
91	43	15C	128 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.614	0.624	0.010	100.000	0.614	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); steep slopes and wetlands present; property is partially within open water protection area.
91	35	15C	158 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.560	0.660	0.000	100.000	0.560	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
91	30	15C	148 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.708	0.665	0.042	100.000	0.708	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
91	50.02	15C	128 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.546	0.546	0.000	100.000	0.000	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); steep slopes present; property is entirely within open water protection area.
91	1	15C	012 ELM RD	MOUNTAIN LAKES BOROUGH	R-A	0.520	0.519	0.001	100.000	0.520	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013.
91	14	15C	200 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.279	0.061	0.167	100.000	0.279	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013.
91	55	15C	118 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.437	0.437	0.000	100.000	0.000	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Halsey A. Frederick Memorial Park); steep slopes present; property is partially within open water protection area.
94	9.01	15C	090 ELM RD	MOUNTAIN LAKES BOROUGH	R-A	0.703	0.163	0.040	100.000	0.703	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
94	16	15C	058 RIVERVALE RD	MOUNTAIN LAKES BOROUGH	R-A	0.380	0.111	0.269	100.000	0.380	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
94	5	15C	009 ELM RD	PUBLIC LIBRARY	R-A	0.636	0.000	0.636	100.000	0.636	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Developed with Mountain Lakes Library.
100	29	15C	276 BOULEVARD & RANCH	MOUNTAIN LAKES BOROUGH	R-A	1.217	1.217	0.000	98.979	0.000	NO	0.000	(602) PRESERVED (609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Island Beach); steep slopes present; property is partially within open water protection area.
100	23.01	15C	266 BLVD	HESSION, JOSEPH M/O RHEIN, HALEY	R-A	0.659	0.659	0.000	90.081	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; lot entirely within open water protection area; remaining acreage < 0.83 acres.
101	79	15C	125 PERNWOOD PL	MOUNTAIN LAKES BOROUGH	R-A	2.081	2.081	0.000	95.297	0.000	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Theodore F. Flai Bird Sanctuary); steep slopes present; property is entirely within open water protection area.
101	71	15C	163 LAKE DR	MOUNTAIN LAKES BOROUGH	R-A	0.817	0.817	0.000	97.348	0.000	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Hansen Hill Bird Sanctuary); steep slopes present; property is entirely within open water protection area.
101	48.02	15C	117 LAKE DR	KINGENBURG, ROBERT L	R-A	0.419	0.419	0.000	100.000	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; lot entirely within open water protection area; remaining acreage < 0.83 acres.
101	44	15C	105 LAKE DR	MOUNTAIN LAKES BOROUGH	R-A	0.586	0.586	0.000	99.501	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; lot entirely within open water protection area; remaining acreage < 0.83 acres.
101	30.07	15C	065 LAKE DR BEACH	MOUNTAIN LAKES BOROUGH	R-A	0.457	0.457	0.000	78.197	0.000	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Wildlife Dual Landings); steep slopes present; property is entirely within open water protection area.
101	105	15C	026 LAKE DR	JOLUIC, DUSKO/JANA	R-A	1.475	1.475	0.000	100.000	0.000	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; lot entirely within open water protection area; remaining acreage < 0.83 acres.
104	44	15C	079 POLLARD RD	MOUNTAIN LAKES BOROUGH	R-A	0.279	0.047	0.236	100.000	0.279	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
104	71	15C	085 POLLARD RD	MOUNTAIN LAKES BOROUGH	R-A	0.547	0.040	0.498	100.000	0.547	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
104	78	15C	011 POLLARD RD	MOUNTAIN LAKES BOROUGH	R-A	0.360	0.365	0.014	100.000	0.360	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
105	27	15C	001 POLLARD RD	MOUNTAIN LAKES BOROUGH	R-A	0.148	0.147	0.000	100.000	0.148	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
105	15	15C	260 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R-A	0.499	0.458	0.041	100.000	0.499	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013.
106	1	15C	000 MIDVALE RD @ ROMAIN	WVIRN MIDVALE PROPERTIES LLC	A	0.046	0.000	0.046	100.000	0.046	NO	0.000	(607) TOTALLY CONSTRAINED	Lot too small; lot acreage < 0.83 acres.
106	9	15C	048 MIDVALE RD	MOUNTAIN LAKES BOROUGH	A	0.132	0.054	0.078	100.000	0.132	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; remaining acreage < 0.83 acres.
105	9.01	15C	038 MIDVALE RD	MOUNTAIN LAKES BOROUGH	A	0.129	0.100	0.030	100.000	0.129	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
107	10	15C	010 POLLARD RD	MOUNTAIN LAKES BOROUGH	R-A	0.575	0.475	0.100	100.000	0.575	NO	0.000	(609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present.
108	9	15C	018 ROMAIN RD	SIVIN HUNDERT E LLC	A	0.041	0.037	0.004	100.000	0.041	NO	0.000	(607) TOTALLY CONSTRAINED	Steep slopes present; lot partially within open water protection area; remaining acreage < 0.83 acres.
108	10	15C	020 ROMAIN RD	MOUNTAIN LAKES BOROUGH	A	1.403	1.374	0.029	100.000	1.403	NO	0.000	(602) PRESERVED (609) PUBLIC DEVELOPED LOT/S COV (607) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; steep slopes present; property is partially within open water protection area.

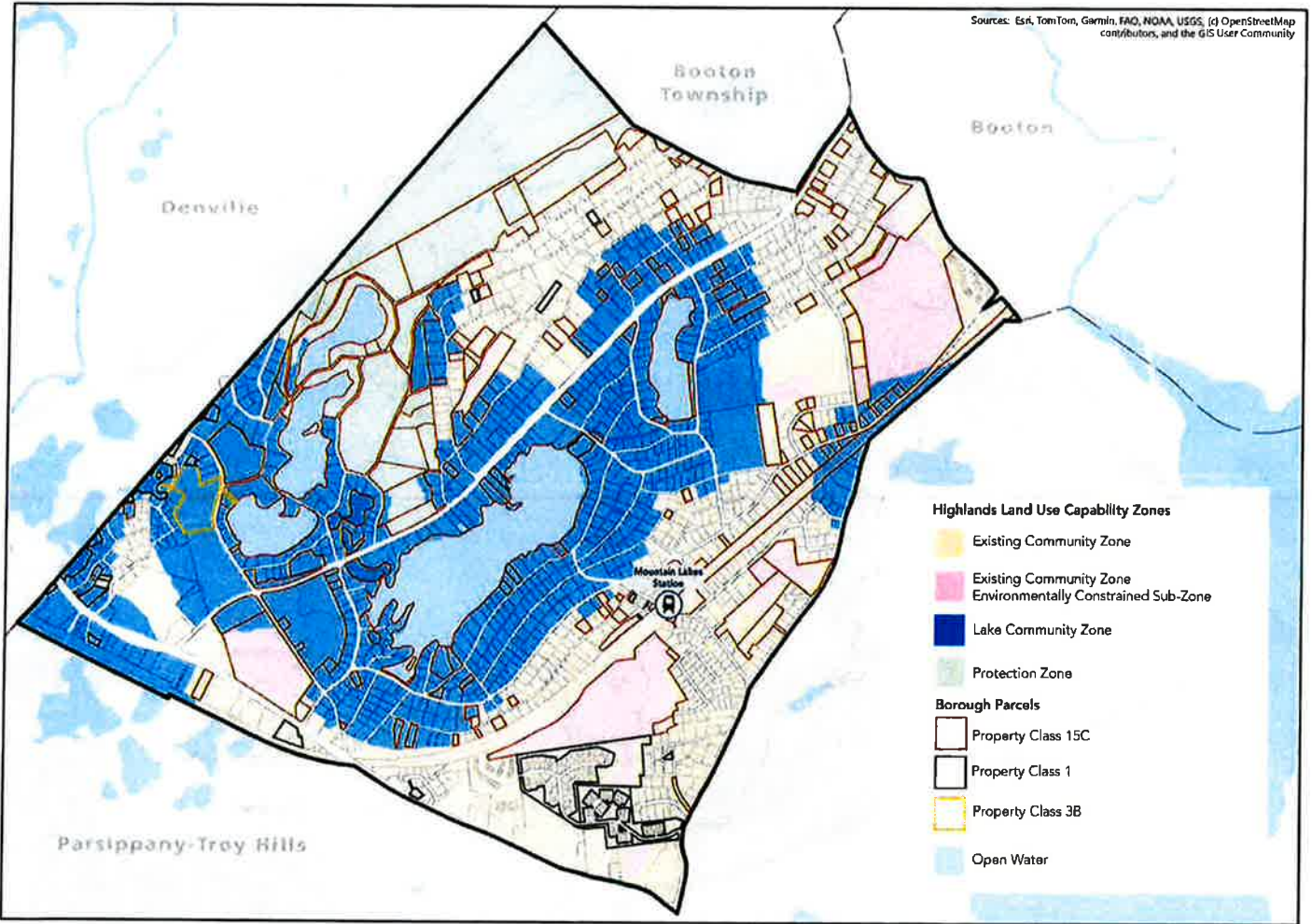
L31	A	15C	000 MORRIS AVE	MOUNTAIN LAKES BOROUGH	R A	0.277	0.277	0.000	27.704	0.000	NO	0.000	(1605) PUBLIC DEVELOPED LOT/5 COV (601) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013; property is entirely within open water protection area
L31	B	15C	000 PUBLIC BEACH	MOUNTAIN LAKES BOROUGH	R A	0.295	0.295	0.000	5.6	0.000	NO	0.000	(1605) PUBLIC DEVELOPED LOT/5 COV (604) INSUFFICIENT SEPTIC DENSITY THRESHOLD (45 UNITS) (602) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Island Beach); property is compatible with open water protection area
L31	C	15C	000 MOUNTAIN LAKE	MOUNTAIN LAKES BOROUGH	1420	29.098	29.098	0.000	8.621	0.000	NO	0.000	(1601) OPEN WATER (1602) PRESERVED (1603) TOTALLY CONSTRAINED	Open water (Mountain Lake)
L32	D	15C	000 RESERVOIR LAKE	MOUNTAIN LAKES BOROUGH	R-A	2.455	2.455	0.000	1.152	0.000	NO	0.000	(1605) PUBLIC DEVELOPED LOT/5 COV (604) INSUFFICIENT SEPTIC DENSITY THRESHOLD (45 UNITS) (602) TOTALLY CONSTRAINED	Open water (Grunden's Pond)
L33	E	15C	000 COVE LAKE	MOUNTAIN LAKES BOROUGH	1420	1.073	1.073	0.000	17.664	0.000	NO	0.000	(1602) PRESERVED (1605) PUBLIC DEVELOPED LOT/5 COV (602) TOTALLY CONSTRAINED	Open water (Cove Lake)
L34	F	15C	000 SHADOW LAKE & OLIVE	MOUNTAIN LAKES BOROUGH	1420	9.182	9.182	0.000	9.393	0.000	NO	0.000	(1602) PRESERVED (1605) PUBLIC DEVELOPED LOT/5 COV (602) TOTALLY CONSTRAINED	Open water (Olive and Shadow Lakes)
L35	G	15C	000 SUNSET LAKE	MOUNTAIN LAKES BOROUGH	1420	15.580	15.580	0.000	1.876	0.000	NO	0.000	(1601) OPEN WATER (1602) PRESERVED (1603) TOTALLY CONSTRAINED	Open water (Sunset Lake)
L36	H	15C	000 CRYSTAL LAKE	MOUNTAIN LAKES BOROUGH	R AA	19.792	19.792	0.000	7.191	0.000	NO	0.000	(1601) OPEN WATER (1602) PRESERVED (1603) TOTALLY CONSTRAINED	Open water (Crystal Lake)
L37	I	15C	000 BIRCHWOOD LAKE	MOUNTAIN LAKES BOROUGH	R AA	13.711	13.711	0.000	0.728	0.000	NO	0.000	(1602) PRESERVED (1604) INSUFFICIENT SEPTIC DENSITY THRESHOLD (45 UNITS) (1603) TOTALLY CONSTRAINED	Open water (Birchwood Lake)
L38	J	15C	000 REDUCED AREA ROCK LANE	MOUNTAIN LAKES BOROUGH	C	0.881	0.881	0.000	100.000	0.881	NO	0.000	(1605) PUBLIC DEVELOPED LOT/5 COV (602) TOTALLY CONSTRAINED	Property designated for conservation, park lands and open space in master plan adopted 10/24/2013 (Linear Park)
												TOTAL DEVELOPABLE ACRAGE	0.000	



Appendix B.2: Vacant Land Adjustment with Highlands Environmental Constraints

Borough of Mountain Lakes 2025 Housing Element and Fair Share Plan
 PHILLIPS PREISS GRYGIEL LEHENY HUGHES LLC 2025





Appendix B.3: Vacant Land Adjustment with Highlands Land Use Land Capability Zones

Borough of Mountain Lakes 2025 Housing Element and Fair Share Plan
 PHILLIPS PREISS GRYGIEL LEHENY HUGHES LLC 2025



Appendix C: Third Round Settlement Agreement

Rehabilitation Share (per Kinsey Report ¹)	1
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	80
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)	271

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. The Borough's efforts to meet its present need include the following: Morris Community Development Block Grant Housing Rehabilitation Program. This is sufficient to satisfy the Borough's present need obligation of 1 units.
6. The municipality, as calculated in Exh. A, has a realistic development potential (RDP) of 18 units and an unmet need of 62 units for the Prior Round. That RDP will be satisfied as follows:

Development	Units	Bonus Credits	Total Credits
RCA with City of Orange	12	0	12
Fusee Site	6	0	6
Total	18	0	18

The RDP of 18, subtracted from the Prior Round Obligation of 80 units, results in an unmet need of 62 units. This will be addressed through a Borough-wide Affordable Housing Mandatory Set-aside Ordinance to capture future affordable housing (a 15% for rental 20% for sale set aside) from any residential development comprised of five or more units.

7. The municipality, as calculated in Exh. A, has a realistic development potential (RDP) of 17 units. That RDP will be satisfied as follows:

Development	Units	Bonus Credits	Total Credits
Fusee Site	2	0	2
Block 116/Lot 3.0x ("King of Kings site")	6	0	6
Block 118.04/Lot 2.01 ("1 Bloomfield Avenue")	4	0	4
Accessory Apartments	5	0	5

¹ David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

- a) King of Kings – in November 2015 the Borough rezoned Block 116 Lot 3 (7.7 acres) to permit up to 40 townhomes with a 15% set-aside of 6 affordable housing units. This site has now received all of its approvals and is currently under construction.

10. The Borough will provide a realistic opportunity for the development of additional affordable housing that will be developed or created through means other than inclusionary zoning in the following ways:

Accessory Apartment program – the Borough proposes to address a part of its RDP utilizing credits from an accessory apartment program to be established pursuant to this agreement. The Borough proposes to incentivize property owners of existing accessory apartments pursuant to N.J.A.C. 5:93-5.9(c). The Borough shall identify how many existing accessory apartments exist within the Borough and thus how many may potentially be converted in this way.

In the event that the Borough cannot secure 5 deed restricted accessory apartments utilizing the process identified in N.J.A.C. 5:93-5.9(c) the Borough agrees to fund the accessory apartment program providing \$50,000 for very low-income units, \$40,000 for low-income units, and \$30,000 for moderate-income units.

11. The Borough agrees to require 13% of all affordable units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. The municipality will comply with those requirements as follows:
- a) The Borough agrees that 13% of all units created pursuant to the overlay zoning identified in Paragraph 8(a) shall be reserved for households earning at or below 30% median income.
 - b) The Borough agrees that 13% of all units created pursuant to the mandatory set-aside ordinance identified in Paragraph 8(c) shall be reserved for households earning at or below 30% median income.
 - c) The Borough agrees to provide 1 accessory apartment unit as very low income. The Borough will demonstrate how this will be accomplished in its final Housing Element and Fair Share Plan.
 - d) The parties understand that there are no very low income units included in the units under construction at the King of Kings site.
12. The Borough shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 7 and 8 above:
- a) Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
 - b) At least 50 percent of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
 - c) At least twenty-five percent of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.

- by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.
- b) The income limits attached hereto as Exhibit B are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2017, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
 - c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
 - d) The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.
15. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.
16. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Borough shall introduce and adopt an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.
17. The parties agree that if a decision of a court of competent jurisdiction in Morris County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than twenty (20%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.
18. The Borough shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan

pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.

22. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties contemplate the municipality will receive "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015). The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
23. The Borough agrees to pay FSHC's attorneys fees and costs in the amount of \$3,000 within ten (10) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.
24. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
25. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Morris County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
26. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.
27. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
28. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
29. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
30. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the


Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.
Counsel for Intervenor/Interested Party
Fair Share Housing Center

On behalf of the Borough of Mountain Lakes, with the authorization
of the governing body:


Robert H. Dwyer Jr., Borough Attorney
Dated: 1 - 29 - 19

BOROUGH OF MOUNTAIN LAKES

MORRIS COUNTY, NEW JERSEY

ORDINANCE # 6-19

AN ORDINANCE AMENDING CHAPTER 245, ZONING OF THE CODE OF THE BOROUGH OF MOUNTAIN LAKES THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND ESTABLISHING AN ACCESSORY APARTMENT ORDINANCE

WHEREAS, on March 10, 2015, the New Jersey Supreme Court issued its decision In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015). In that decision, the New Jersey Supreme Court transferred primary jurisdiction over affordable housing matters from the New Jersey Council on Affordable Housing ("COAH") to the New Jersey Superior Court and established a transitional process for municipalities, like the Borough of Mountain Lakes ("Borough"), to file declaratory judgment actions seeking to declare their Housing Element and Fair Share Plans ("HEFSPs") as being constitutionally compliant and seeking similar protections to what they would have received if they had continued to proceed before COAH; and

WHEREAS, on July 25, 2016, the Borough filed a declaratory judgment action with the New Jersey Superior Court seeking to declare its HEFSP as being constitutionally compliant and seeking protection and repose against exclusionary zoning litigation; and

WHEREAS, the Borough negotiated and executed a Settlement Agreement dated January 29, 2019 with the Fair Share Housing Center ("FSHC"), which included agreement on the extent of the Borough's affordable housing fair share obligation for the period from 1999 to 2025 and the methods the Borough intends to use to satisfy the obligation; and

WHEREAS, Borough zoning rules prohibit the presence of accessory apartments in residential zones, but the Settlement Agreement includes a requirement that the Borough establish five affordable Accessory Apartments

NOW, THEREFORE, the general purpose of this Chapter is to provide an opportunity for the creation of accessory apartments within Residential and "A" Business districts of the Borough, sufficient to meet the terms of the settlement agreement, and to provide the ability for the owner-occupant of a Borough dwelling to apply to provide one such accessory apartment which shall be rented according to the provisions of the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-36.1, et seq.), and administered by the appropriate Borough officer;

IT IS HEREBY ORDAINED by the Borough Council of the Borough of Mountain Lakes, Morris County, State of New Jersey, as follows:

- C. An accessory apartment shall be created within the existing footprint of the existing dwelling or the existing footprint of the existing accessory structure (e.g. detached garage). A new entry door, landing, or covered porch, dormers and modifications to the roof-lines that are architecturally consistent with the details, materials, windows, massing and scale of the existing structure shall be permitted. All additions shall comply with the bulk requirements of the Zone.
- D. An accessory apartment may be created within an existing Contributing Dwelling and shall be eligible for bulk incentives as specified in the latest adopted version of the Borough Ordinance 40-47 Establishing a Historic Preservation Committee and Establishing Special Zoning Requirements for Contributing Dwelling. Any accessory apartment provided within a Contributing Dwellings shall utilize the Historic Mountain Lakes Restoration and Renovation Handbook Design standards.
- E. Accessory apartments shall have living/sleeping space, cooking facilities, a kitchen sink, and complete sanitary facilities for the exclusive use of its occupants. The accessory apartment shall have a private entrance. The ceiling height for habitable spaces shall be no less than 7 feet.
- F. The potable water supply and sewage disposal system for the accessory apartment shall be adequate as evidenced by approval of the Borough Water & Sewer Utility.
- G. The creation of an accessory apartment shall not create a non-conforming condition on the site regarding applicable zoning requirements. An accessory apartment that is detached from the principal dwelling shall conform to all of the accessory building requirements of the zone.
- H. There shall be no more than one (1) accessory apartment located on any (1) lot unless the property is in the A Business zone and has more than one pre-existing apartment.
- I. Off-street parking shall be provided for the occupants of the affordable accessory Apartment in conformance with Chapter 245: Zoning; Article IV-Use Regulations; §245-15(L) Supplementary Use Regulations, and shall be depicted on the submitted sketch or site plan.
- J. Any renovation relative to the creation of an accessory apartment shall be architecturally consistent with the appearance of other structures on the same site. Accessory apartments shall be designed to blend and harmonize with the existing exterior architectural design of the original dwelling unit using similar materials, colors and details. The present exterior architectural design of the original dwelling unit shall be maintained to preserve the residential character of the neighborhood. Any accessory apartment provided within a Contributing Dwelling shall utilize the Historic Mountain Lakes Restoration and Renovation Handbook design standards.
- K. Any dwelling unit created or designated as an accessory apartment pursuant to this section shall be and shall remain permanently accessory to the primary use of the

apartment is still under the affordability controls and restrictions required by this program.

- (5) Each time the unit is re-rented, the Administrative Agent will verify that the unit will continue to be occupied by a qualified moderate, low-income or very low-income household and that the rent charged meets the affordability guidelines of the program.
- (6) All properties shall be periodically checked for liens, and any suspected violations of the program shall be reported to the Administrative Agent for further investigation.
- (7) At the termination of the affordability controls, the loan shall be forgiven and the lien shall be discharged by way of a Notice of Lien Discharged filed with the County Clerk.

B. Length of affordability. Owners who utilize the provisions of the accessory apartments program shall accept a deed restriction on the property. The deed restriction shall state that only a moderate, low income, or very low income tenant, as determined by the Administrative Agent, shall occupy the accessory apartment unit. The deed restriction shall be recorded with the County Clerk, and a copy of the recorded deed shall be forwarded to the Administrative Agent. The deed restriction shall go into effect as soon as a certificate of occupancy has been issued and shall apply for a period of at least ten (10) years.

C. Pricing

- (1) Gross rents, including a utility allowance consistent with the utility allowance approved by HUD for use in New Jersey, shall be set so as not to exceed thirty percent (30%) of the gross monthly income for the appropriate household size and income level. Maximum rents for each household size and income level shall be calculated based on the regional weighted average of the current uncapped Section 8 income limits published by HUD.
- (2) Rents of accessory apartments shall be affordable to very low, low, or moderate income households as per the FHA, COAH or its successor agency, and UHAC regulations.
- (3) Annual indexed increases. The rents of the accessory apartment units may be increased annually in accordance with N.J.A.C. 5:93-9.15.

§245-43. Program Compliance.

A. The Borough shall designate an Administrative Agent to administer the accessory apartments program. The Administrator's responsibilities shall include advertising the accessory apartments, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing subsidies as applicable, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions, monitoring reports, and affirmatively marketing the affordable accessory Apartment program in accordance with the UHAC.

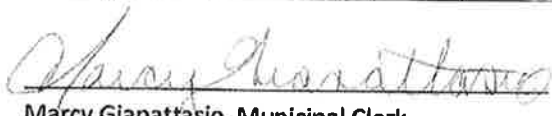
Ordinance 6-19, AN ORDINANCE AMENDING CHAPTER 245, ZONING OF THE CODE OF THE BOROUGH OF MOUNTAIN LAKES THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND ESTABLISHING AN ACCESSORY APARTMENT ORDINANCE

Subject to rules and regulations coming to Council within 120 days.

Introduced: May 13, 2019

Adopted: May 29, 2019

Name	Motion	Second	Aye	Nay	Absent	Abstain	Motion	Second	Aye	Nay	Absent	Abstain
Happer					X				X			
Horst			X					X	X			
Korman	X		X				X		X			
Lane			X								X	
Menard			X						X			
Shepherd		X	X						X			
Barnett			X						X			


Marcy Gianattasio, Municipal Clerk


Lauren Barnett, Mayor

Morris County Recording Cover Sheet

Honorable Ann F. Grossi, Esq.
Morris County Clerk

MORRIS COUNTY, NJ

Ann F. Grossi

RTC-OR BOOK 24574 PG 1826

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INDEX FEE

*Official Use Only - Realty Transfer Fee**Official Use Only - Barcode***Date of Document:**
09/06/2022**Type of Document:**
RESTRICTIVE COVENANT**First Party Name:**
GFM PROPERTIES INC.**Second Party Name:**
NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF HOUSING AND COMMUNITY RESOURCES
NATIONAL HOUSING TRUST FUND**ADDITIONAL PARTIES****THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY****Block:****Municipality:** MOUNTAIN LAKES BORO**Consideration:****Mailing Address of Grantee:****THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN
ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE****Original Book:****Original Page:****MORRIS COUNTY RECORDING COVER SHEET**

Please do not detach this page from the original document as it contains important recording information and
is part of the permanent record.

WARNING: Information contained on the Recording Cover Sheet must exactly match the information within the
attached document or the document will be rejected and returned.

D. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the DCA.

E. The Owner shall notify the NJDCA or its designee, of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.

F. The Owner shall notify the NJDCA or its designee, within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

G. Any purported transfer of title of a the Property that is not in strict conformance with the provisions of this Deed, shall be void and of no effect.

Article IV - Term of Deed

(a) This Deed, and the term of restricted use specified herein (hereinafter referred to as the "Affordability Period") shall apply to the NHTF-Assisted Unit and/or Property immediately upon signing, and said Deed shall be recorded upon signing. This Deed shall terminate ~~30~~ thirty years following the date that the NHTF-Assisted Unit and/or Property is certified for occupancy. The subsequent Grantee/Owner shall cooperate with the DCA in executing and recording all documents necessary to effectuate continuance of the Deed restrictions.

(b) Pursuant to the Grant Agreement the New Jersey Department of Community Affairs DCA National Housing Trust Program, National Housing Trust Fund regulations, appropriate Grant Agreement and accompanying security documents this Deed and the term of affordability shall remain in full force and effect for not less than the Affordability Period described in section IV (a) above without regard to the term of any mortgage or other underlying encumbrance upon the subject Property and without regard to any transfer of ownership.

Article V - Enforcement of Restrictions

(a) The Owner shall submit any other information, documents, or certifications requested by the DCA to substantiate the Owner's continued compliance with the provisions of Deed.

(b) The Owner hereby warrants that the representations and covenants set forth herein shall be relied upon by the DCA and all persons interested in compliance of the Deed restrictions.

(c) The Owner covenants that the Owner will not knowingly take or permit any action that would result in a violation of the Deed restriction requirements. The Owner covenants to take any lawful action (including amendment of this Deed as may be necessary, in the opinion of the DCA) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed and published by HUD from time to time pertaining to the Owner's obligations under the NHTF.

(d) The Owner acknowledges that the primary purpose for requiring compliance by the Owner with the restrictions provided in this Deed is to assure compliance with the Title I of the Housing and Economic Recovery Act of 2008, Section 1131, 24 CFR, Part 93, and other applicable regulations, and by reason thereof, in consideration of NHTF Funds provided by the DCA to the Owner and/or the Owner's Predecessor in Interest, hereby agrees and consents that the DCA shall be entitled, for any breach of the provisions hereon, and in addition to all other remedies provided by law or in equity, to enforce specific performance by the Owner of its obligations under this Deed in a court of competent jurisdiction. The Owner hereby further specifically acknowledges that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

(e) For the term of this Deed, each and every contract, deed or other instrument hereafter executed conveying the NHTF-Assisted Unit or Property, shall expressly provide that

STATE OF NEW JERSEY, COUNTY OF BERGEN SS:

I CERTIFY that on SEPT 4, 2022, LUCIANO BRUNI, personally came before me and stated to my satisfaction that this person (or if more than one, each person);

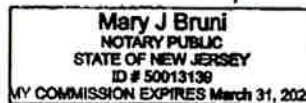
- (a) was the maker of the attached instrument;
- (b) was authorized to and did execute this instrument as PRESIDENT, of the entity named in this instrument; and
- (c) executed this instrument as the act of the entity named in this instrument.


SWORN TO AND SUBSCRIBED

before me on the date above.


Notary Public of New Jersey

My commission expires on 3/31/2025



R&R:
Techno Title Agency
27 E. Main Street
Little Falls, NJ 07424

This is not an official document



First American Title™

ALTA Commitment for Title Insurance

ISSUED BY

First American Title Insurance Company

COMMITMENT NUMBER

TT21-4679

Schedule C

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY AND IS DESCRIBED AS FOLLOWS:

ALL that certain lot, parcel or tract of land, situate and lying in the Borough of Mountain Lakes, County of Morris, State of New Jersey, and being more particularly described as follows:

Beginning at a point in the northeasterly right-of-way line of New Jersey State Highway Route 46 (variable width right-of-way), said point being the corner common to Lots 3 and 26, Block 9, and having New Jersey State Plane NAD 83 coordinates N:747,480.20, E:502,468.93, running, thence;

1. Northwesterly along said right-of-way line, a curve to the right having a radius of 1850.08 feet, an arc length of 207.77 feet, and a central angle of 06°26'04" (chord - N 47°47'14" W, 207.66 feet), thence;
2. N 45°26'19" E, 21.79 feet along Lot 1, Block 9, thence;
3. S 44°33'41" E, 22.63 feet along Lot 7, Block 9, thence;
4. N 58°26'19" E, 206.45 feet along Lots 7, 8, 10 and 11, passing over a concrete monument found at the rear corner common to Lots 10 and 11, thence;
5. N 27°58'19" E, 41.72 feet along said Lot 11, thence;
6. S 74°43'41" E, 175.00 feet along Lot 22, Block 9, thence;
7. N 50°22'20" E, 43.12 feet along the same to a point in the westerly right-of-way line of Rainbow Trail (variable width right-of-way), thence;
8. S 17°50'17" W, 45.00 feet along said right-of-way line, thence;
9. S 52°50'17" W, 254.19 feet along Lots 25 and 25.01, Block 9, thence;
10. S 40°34'17" W, 90.33 feet along Lot 26, Block 9 to the point or place of beginning.

The above description is based on plan titled "Boundary and Topographic Survey Plan, Block 9, Lot 3, New Jersey State Highway Route 46, Borough of Mountain Lakes, Morris County, New Jersey", prepared by Dykstra Walker Design Group,

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Appendix F: Existing Adopted Overlay Zones

provisions of Article VI of this chapter (i.e., Affordable Housing Ordinance) Permitted accessory uses shall include uses which are customarily incidental to the permitted principal use, including, but not limited to, indoor and outdoor recreational facilities and related amenities for the exclusive use of residents and guests.

B. Bulk and Development Standards

- (1) For permitted uses other than multi-family inclusionary development, as set forth in Article V of this chapter for the OL-1 Zone.
- (2) For multi-family inclusionary development, as set forth below.
 - (a) Minimum lot size: 3 acres
 - (b) Minimum lot frontage: 250 feet
 - (c) Maximum density: 14 units per gross acre
 - (d) Maximum building height: 3 stories/40 feet
 - (e) Minimum front yard setback: 75 feet
 - (f) Minimum side yard setback: 50 feet
 - (g) Minimum rear yard setback: 75 feet
 - (h) Maximum building coverage: 25%
 - (i) Maximum improved coverage: 50%
 - (j) There shall be no more than eight (8) townhouse units in any building
 - (k) There shall be no more than sixteen (16) units in any 2-story multi-family building and no more than twenty-four (24) units in any 3-story building.
 - (l) The minimum distance between buildings shall be as follows:
 - i. Windowless wall to windowless wall: 25 feet
 - ii. Window wall to windowless wall: 30 feet
 - iii. Window wall to window wall:
 - Front to front: 75 feet
 - Rear to rear: 50 feet
 - End to end: 35 feet
 - (m) Development shall maintain a minimum fifty (50) landscaped buffer to any residential zone boundary line which shall consist of either existing vegetation or new plantings, or where appropriate, a combination of existing vegetation and new plantings.
 - (n) No parking area shall be located within fifty (50) feet of a front lot line or within twenty-five (25) feet of any other lot line.
 - (o) Parking shall be provided in accordance with New Jersey Residential Site Improvement Standards (RSIS).

- End to end: 35 feet
- (m) Development shall maintain a minimum fifty (50) landscaped buffer to any residential zone boundary line which shall consist of either existing vegetation or new plantings, or where appropriate, a combination of existing vegetation and new plantings.
 - (n) No parking area shall be located within fifty (50) feet of a front lot line or within twenty-five (25) feet of any other lot line.
 - (o) Parking shall be provided in accordance with New Jersey Residential Site Improvement Standards (RSIS).

Section 4: If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 5: All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 6: This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Introduced: 5/13/2019

Adopted: 5/29/2019



Marcy Gianattasio, Borough Clerk



Lauren Barnett, Mayor

Appendix G: Proposed Revisions to Affordable Housing Ordinance

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~~Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Borough's constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households. In addition, this section applies requirements for very low income housing established in P.L. 2008, c.46 (the "Roberts Bill").~~

~~B.A.~~ This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.

~~C.B.~~ The Mountain Lakes Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways the Borough of Mountain Lakes shall address its fair share for low- and moderate-income housing as determined by the ~~Superior~~ Court and documented in the Housing Element.

~~D.C.~~ This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.

~~E.D.~~ The Borough shall file monitoring reports with the Superior Court and place the reports on its municipal website.

§245-22. Monitoring and Reporting Requirements

~~The Borough of Mountain Lakes shall comply with the following monitoring and reporting requirements set forth in N.J.S.A. 52:27D-329.2 and N.J.S.A. 52:27D-329.4. The Borough of Mountain Lakes shall comply with the following monitoring and reporting requirements regarding the status of its implementation of its Court-approved Housing Element and Fair Share Plan and N.J.A.C. 5:93.~~

~~A. Beginning on January 29, 2020, and on every anniversary of that date through January 29, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center (FSHC), using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the FSHC.~~

~~B. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the court regarding these issues.~~

~~C. By January 29, 2022, and every third year thereafter, as required by N.J.S.A. 52:27D-329.4, the Borough will post on its municipal website, with a copy provided FSHC, a status report as to its satisfaction of its very low income requirements, including the family very low~~

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"Age-restricted unit" means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternate living arrangements includes, but are not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes, as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

"Assisted living residence" means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

"Certified household" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

"COAH" means the Council on Affordable Housing, which ~~is~~ ~~was~~ in, but not of, the Department of Community Affairs of the State of New Jersey, that was ~~previously~~ established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) ~~prior to its abolition through P.L. 2024, c. 2.~~

"DCA" means the State of New Jersey Department of Community Affairs.

"Deficient housing unit" means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

"Developer" means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

"Dispute Resolution Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Judiciary of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

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"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

"Special Master" means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq., ~~as amended and supplemented.~~

"Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the median household income.

"Very low-income unit" means a restricted unit that is affordable to a very low-income household.

"Weatherization" means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§245-24. Borough-wide Mandatory Set-Aside

A. Any future multi-family residential development providing a minimum of five (5) new housing units or more is required to include an affordable housing set-aside of 20% if the affordable units will be for sale and 15% if the affordable units will be for rent. This requirement shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Mountain Lakes to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.

~~B. This requirement shall not apply to any sites or specific zones otherwise identified in the Borough's Settlement Agreement with Fair Share Housing Center dated January 29, 2019, or in the Borough's Housing Element and Fair Share Plan, adopted by the Borough Planning Board and endorsed by the Borough Council, for which density and set-aside standards shall be governed by the specific standards set forth therein.~~

§245-25. Accessory Apartment Program

Accessory apartments created under this program shall abide by the regulations in this chapter and those outlined in Chapter 245, Article VI, Affordable Accessory Apartments.

§245-26. New Construction

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units. ~~The required income and bedroom distribution of affordable housing units shall be as set forth in UHAC, N.J.A.C. 5:80-26.1 et seq., as amended and supplemented.~~

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing ~~schedule for low- and moderate-income~~

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F. Accessibility Requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An interior accessible route of travel shall not be required between stories within an individual unit;
 - (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - [1.] Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - [2.] To this end, the builder of restricted units shall deposit funds within the Borough's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - [3.] The funds deposited under subsection [b] above shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - [4.] The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Mountain Lakes.
 - [5.] Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to Mountain Lakes' affordable housing trust fund in care of the Borough's Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
 - [6.] Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is impracticable to meet the requirements.

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- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.54, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.43, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.54, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.43, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
- (10) The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
- (11) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.
- (12) Condominium and Homeowners Associates Fees. For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100 percent of the market rate fee.

§245-27. Occupancy Standards.

A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:

- (1) Provide an occupant for each bedroom;
- (2) Provide children of different sex with separate bedrooms;
- ~~(2)(3)~~ Provide separate bedrooms for parents and children; and
- ~~(3)(4)~~ Prevent more than two persons from occupying a single bedroom.

B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

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§245-30. Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

§245-31. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.76(b).

§245-32. Control Periods for Restricted Rental Units

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.124, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the [insert name of municipality] elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of [insert name of county]. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
- (1) Sublease or assignment of the lease of the unit;
 - (2) Sale or other voluntary transfer of the ownership of the unit; or
 - (3) The entry and enforcement of any judgment of foreclosure.

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- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (2)(a) through (e) above with the Administrative Agent, who shall counsel the household on budgeting.

§245-35. Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison (MHL) for Mountain Lakes is established by this ordinance. The MHL shall be appointed by duly adopted resolution of the Borough Council and be subject to the approval by the Superior Court.
- B. The MHL must be either a full-time or part-time employee of the Borough of Mountain Lakes.
- C. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Mountain Lakes, including the following responsibilities which may not be contracted out to the Administrative Agent:
- (1) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (2) The implementation of the Affirmative Marketing Plan and affordability controls.
 - (3) When applicable, supervising any contracting Administrative Agent.
 - (4) Monitoring the status of all restricted units in the Borough of Mountain Lakes' Fair Share Plan;
 - (5) Compiling, verifying and submitting annual reports as required by the Superior Court;
 - (6) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - (7) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

§245-36. Administrative Agent.

- A. The Borough shall designate by resolution of the Borough Council, subject to the approval of the Superior Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:93 and UHAC, ~~as amended and supplemented~~.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- C. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.154, 176 and 198 thereof, which includes:
- (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;

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- (2) A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 et seq., as amended and supplemented.

§245-38. Enforcement of Affordable Housing Regulations

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
- (1) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
- (a) A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
- (b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Mountain Lakes Affordable Housing Trust Fund of the gross amount of rent illegally collected;
- (c) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- (2) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- (a) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

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Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3: All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

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Section 4: This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

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Introduced:

Adopted:

Cara Fox, Borough Clerk

Lauren Barnett, Mayor

FAIR SHARE HOUSING CENTER

Adam M. Gordon, Esq.
Laura Smith-Denker, Esq.
Joshua D. Bauers, Esq.
Ashley J. Lee, Esq.
Esmé M. Devenney, Esq.
Ariela Rutbeck-Goldman, Esq.
Joelle L. Paull, Esq.

March 28, 2025

Via eCourts and Electronic Mail

Hon. Stephan C. Hansbury J.SC.. (ret. and on rec.)
Affordable Housing Dispute Resolution Program
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625

**Re: In the Matter of the Application of the Borough of Mountain Lakes,
Docket No.: MRS-L-000244-25**

Dear Judge Hansbury:

Please find enclosed the mediation agreement between the Borough of Mountain Lakes and FSHC in the above-captioned matter. The agreement has been executed by both parties. We thank Your Honor and the Special Adjudicator for your assistance in resolving this matter.

Respectfully,



Esmé M. Devenney, Esq.
Counsel for Fair Share Housing Center

**Cc: Special Adjudicator Brian Slaugh, PP, AICP.
All Parties, via eCourts and email**

WHEREAS, in accordance with the timeframes set forth in the Amended Act and the Directive, FSHC filed a timely objection to Mountain Lakes' resolution on February 28, 2025;

WHEREAS, FSHC's objection contended that Mountain Lakes had improperly calculated its Prospective Need obligations and should be required to utilize the calculation prepared by FSHC in its February 28, 2025 report, setting the Prospective Need obligation at 234;

WHEREAS, Mountain Lakes disputes the contentions raised in FSHC's objection;

WHEREAS, within the Affordable Housing Dispute Resolution Program ("Program") established pursuant to N.J.S.A. 52:27D-313.2, the parties have engaged in the mediation process provided by the Program and conferred and reached an accord setting forth Mountain Lakes' Fourth Round Prospective Need obligations, without either party admitting the validity of the others' claims;

WHEREAS, recognizing that this agreement is reached prior to the adjudication of any challenges by the Program or any potential subsequent review in the judicial system, the parties agree that 190 units is within the range of possibilities of outcomes for Mountain Lakes' Fourth Round Prospective Need;

WHEREAS, resolving the Fourth Round Prospective Need at this juncture and allowing Mountain Lakes to move forward with preparing its Fourth Round HEFSP is important to the interests of lower-income households; and

WHEREAS, the Borough and FSHC thus agree to present this mediation agreement to the Program and consent to the Mediation Agreement, upon the approval by the Program, setting forth Mountain Lakes' Fourth Round obligations and binding the Borough to utilize these obligations and foreclosing FSHC from further challenge to said obligations.

By: Robert H. Oostdyk
Robert H. Oostdyk, Esq.
Counsel for the Borough of Mountain Lakes

Dated: 03/26/2025

By: Joshua D. Bauers
Joshua D. Bauers, Esq.
Counsel for Fair Share Housing Center

Dated: 3/28/25

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BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY

ORDINANCE # XX-25
AMENDING CHAPTER 245, ZONING OF THE CODE OF
THE BOROUGH OF MOUNTAIN LAKES

IT IS HEREBY ORDAINED by the Borough Council of the Borough of Mountain Lakes, Morris County, State of New Jersey, as follows:

Section 1: Chapter 245, Article IX, § 245-70. Zoning Districts is hereby amended to add the following:

OL-2/MF-AHO-2 Office and Light Industrial Zone/Multi-Family Affordable Housing Overlay-2

Section 2: Chapter 245, Article IX, § 245-71. Zoning Map is hereby amended to change the zone classification of the following tax lot from OL-2 to OL-2/MF-AHO-2: Block 118.04, Lot 1.

Section 3: Chapter 245, Article X. Zoning District Regulations is hereby amended by adding the following:

§ 245-83.1 Office and Light Industrial OL-2/Multifamily Affordable Housing Overlay-2.

A. Permitted principal, accessory and conditional uses.

- (1) For permitted uses other than multifamily inclusionary development, as set forth this chapter for the OL-2 Zone.
- (2) Multi-family inclusionary development consisting of townhouses and/or stacked townhouses as permitted principal uses with a required set aside for low- and moderate-income households of 20%. Low- and moderate-income units shall comply with the provisions of Article XVII of this chapter (i.e., Affordable Housing Ordinance). Permitted accessory uses shall include uses which are customarily incidental to the permitted principal use, including, but not limited to, indoor and outdoor recreational facilities and related amenities for the exclusive use of residents and guests.

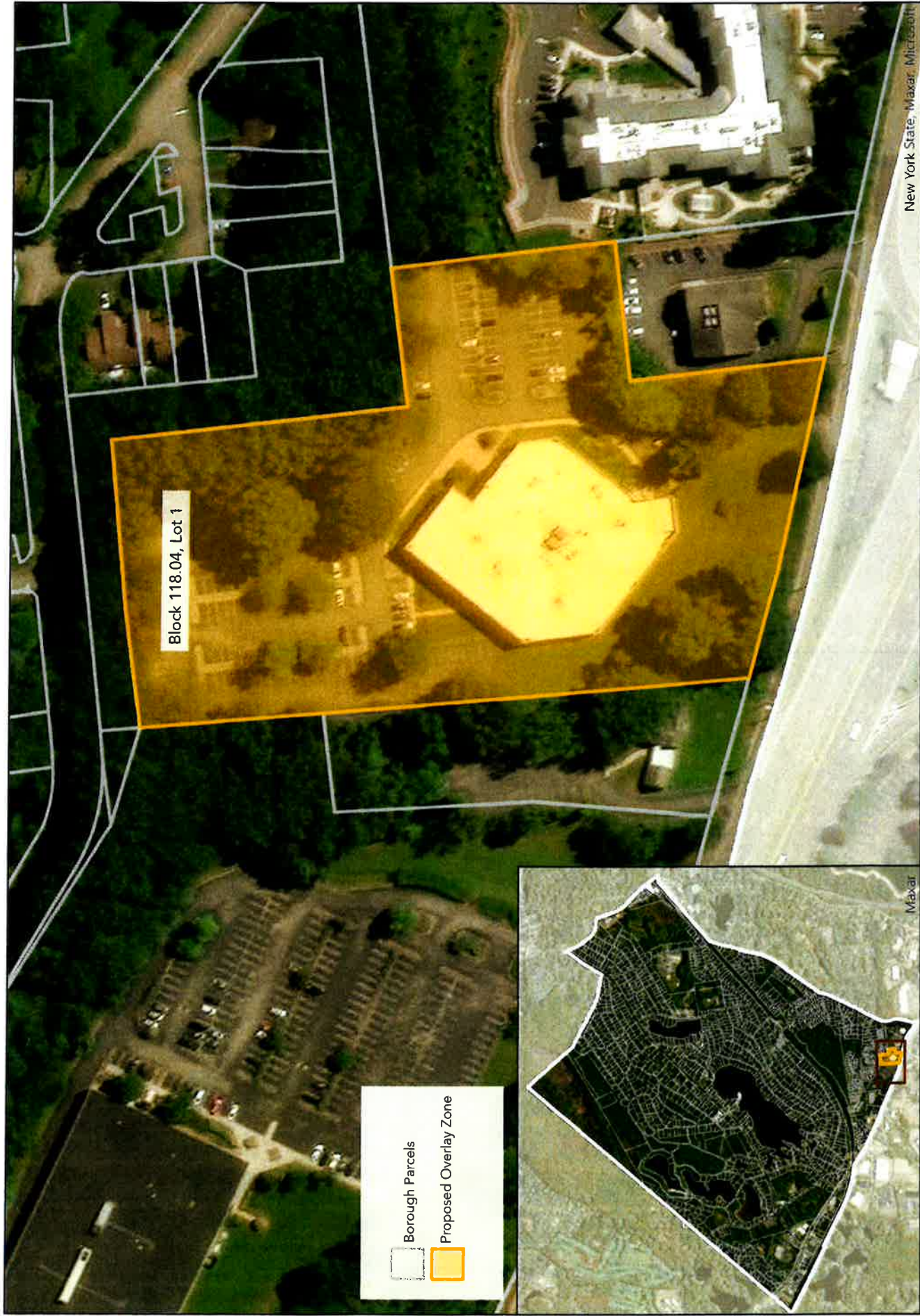


Figure 1: Proposed New Overlay Zone for 49 Bloomfield Avenue/Block 118.04, Lot 1

Appendix J: Proposed Revisions to Development Fee Ordinance

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Department of Community Affairs, following the abolition of COAH. As such, municipalities which have obtained or are in the process of seeking compliance certification may retain and expend these development fees.

(4)E. This article establishes standards for the collection, maintenance and expenditure of development fees pursuant to P.L. 2024, c. 2, which amend those regulations originally established in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38, and supersede the COAH's regulations where in conflict, which remain otherwise valid. Court approval since the Borough has sought and received a declaratory judgment approving its affordable housing plan and in accordance P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.11

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HH Editor's Note: The provisions of N.J.A.C. 5:97 expired on 6-2-2015.

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§ 65-2. Definitions.

The following terms, as used in this article, shall have the following meanings:

"Affordable Housing Development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

"COAH" means the New Jersey Council on Affordable Housing as previously established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) prior to its abolition through P.L. 2024, c. 2 or a successor to be established under state law which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development Fee" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3, as amended and supplemented.

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"Dispute Resolution Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-313.2). The Dispute Resolution Program is established within the Judiciary of the State, for the purpose of resolving disputes associated with the Fair Housing Act with respect to municipalities seeking to obtain a certification of compliance of their adopted Housing Element & Fair Share Plan.

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"Equalized Assessed Value" means the value of a property determined by the Municipal Tax Assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

"Green Building Strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable,

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- C. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- D. Within 10 business days of a request for the scheduling of a final inspection, the Municipal Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- E. Should the Borough of Mountain Lakes fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6), as amended and supplemented.
- F. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at issuance of the building permit and that determined at issuance of the certificate of occupancy.
- G. Appeal of development fees.
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Mountain Lakes. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Mountain Lakes. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 65-6. Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:

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52:27D-301 et seq. and N.J.A.C. 5:93-8, as applicable, and specified in the approved spending plan.

B. Development fee revenues shall not be expended to reimburse the Borough for past housing activities.

C. At least thirty (30%) percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty (30%) percent or less of median income by region.

(1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

(2) Affordability assistance to households earning thirty (30%) percent or less of median income may include buying down the cost of low- or moderate-income units in the third-round Municipal Fair Share Plan to make them affordable to households earning thirty (30%) percent or less of median income. The use of development fees in this manner shall entitle the Borough to bonus credits pursuant to N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:94-4.22, as applicable.

(3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:94-7, as applicable.

E. No more than twenty (20%) percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements for the affordable housing in in compliance with the Housing Element and Fair Share Plan. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's DCA or other court approved entity's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 65-8. Monitoring.

A. The Borough of Mountain Lakes shall comply with the reporting requirements set forth in N.J.S.A. 52:27D-329.

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Appendix K: Adopted Affirmative Marketing Plan

6. Completed final applications will be forwarded to the Administrative Agent. The Administrative Agent will make a determination as to their eligibility for an affordable unit.
7. Applicants will receive a letter from the Administrative Agent with respect to the status of their application each time a review is performed.
8. Applicants will be reviewed by the Landlord for compliance with the tenant selection criteria set for the property. The tenant selection criteria shall comply with all fair housing standards and be set forth in a policy statement made available to all applicants by the Landlord. The Landlord will be responsible for the assessment of all criteria beyond the income and household size criteria set forth by the affordable housing criteria.
9. Certified applicants will be given a pre-determined amount of time to sign a lease agreement with the Landlord.

<input type="checkbox"/>		Madison Eagle	Morris
X	Once at start of Affirmative Marketing Process with additional monthly advertising if necessary.	Morris News Bee	Morris
<input type="checkbox"/>		Mt. Olive Chronicle	Morris
<input type="checkbox"/>		Neighbor News	Morris
<input type="checkbox"/>		Randolph Reporter	Morris
<input type="checkbox"/>		Roxbury Register	Morris
<input type="checkbox"/>		Parsippany Life	Morris
<input type="checkbox"/>		Clark Patriot	Union
<input type="checkbox"/>		Cranford Chronicle	Union
<input type="checkbox"/>		Echo Leader	Union
<input type="checkbox"/>		Elizabeth Reporter	Union
<input type="checkbox"/>		Hillside Leader	Union
<input type="checkbox"/>		Leader of Kenilworth & Roselle Park	Union
<input type="checkbox"/>		Madison Independent Press, The	Union
<input type="checkbox"/>		Millburn and Short Hills Independent Press	Union
<input type="checkbox"/>		News Record	Union
<input type="checkbox"/>		Record-Press	Union
<input type="checkbox"/>		Scotch Plains Times (Fanwood Times)	Union
<input type="checkbox"/>		Spectator Leader	Union
<input type="checkbox"/>		Union Leader	Union
X	Once at start of Affirmative Marketing Process with additional monthly advertising if necessary.	Warren Reporter	Warren

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL TV STATION(S)	CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
TARGETS ENTIRE HOUSING REGION 2			
<input type="checkbox"/>		2 WCBS-TV Cbs Broadcasting Inc.	
		3 KYW-TV Cbs Broadcasting Inc.	
<input type="checkbox"/>		4 WNBC NBC Telemundo License Co. (General Electric)	

<input type="checkbox"/>		36 W36AZ New Jersey Public Broadcasting Authority	Morris
<input type="checkbox"/>		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	Morris, Union, Warren
<input type="checkbox"/>		65 WUVP-TV Univision Communications, Inc.	Morris, Union, Warren
<input type="checkbox"/>		23 W23AZ Centenary College	Morris, Warren
<input type="checkbox"/>		28 WBRE-TV Nexstar Broadcasting, Inc.	Morris, Warren
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Morris, Warren
<input type="checkbox"/>		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	Morris, Warren
<input type="checkbox"/>		44 WVIA-TV Ne Pa Ed Tv Association	Morris, Warren
<input type="checkbox"/>		56 WOLF-TV Wolf License Corp	Morris, Warren
<input type="checkbox"/>		60 WBPH-TV Sonshine Family Television Corp	Morris, Warren
<input type="checkbox"/>		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Morris, Warren
<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	Warren
<input type="checkbox"/>		16 WNEP-TV New York Times Co.	Warren
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Warren
<input type="checkbox"/>		22 WYOU Nexstar Broadcasting, Inc.	Warren
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Warren
<input type="checkbox"/>		38 WSWB Mystic Television of Scranton Llc	Warren
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Warren
<input type="checkbox"/>		49 W49BE New Jersey Public Broadcasting Authority	Warren
<input type="checkbox"/>		55 W55BS New Jersey Public Broadcasting Authority	Warren
<input type="checkbox"/>		57 WPSG Cbs Broadcasting Inc.	Warren
<input type="checkbox"/>		61 WPPX Paxson Communications License Company, Llc	Warren
	DURATION & FREQUENCY OF OUTREACH	NAMES OF CABLE PROVIDER(S)	BROADCAST AREA

X	Once at the start of Affirmative Marketing Process with additional monthly advertising if necessary.	WKXW-FM 101.5	
<input type="checkbox"/>		WQCD 101.9	
<input type="checkbox"/>		WNEW 102.7	
<input type="checkbox"/>		WKTU 103.5	
<input type="checkbox"/>		WAXQ 104.3	
<input type="checkbox"/>		WWPR-FM 105.1	
<input type="checkbox"/>		WLTW 106.7	
TARGETS PARTIAL HOUSING REGION 2			
AM			
<input type="checkbox"/>		WWRL 1600	Essex
<input type="checkbox"/>		WXMC 1310	Essex, Morris
<input type="checkbox"/>		WWRV 1330	Essex, Morris (Spanish)
<input type="checkbox"/>		WZRC 1480	Essex, Morris (Chinese/Cantonese)
<input type="checkbox"/>		WMCA 570	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WNYC 820	Essex, Morris, Union
<input type="checkbox"/>		WCBS 880	Essex, Morris, Union
<input type="checkbox"/>		WPAT 930	Essex, Morris, Union (Caribbean, Mexican, Mandarin)
<input type="checkbox"/>		WWDJ 970	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WINS 1010	Essex, Morris, Union
<input type="checkbox"/>		WEPN 1050	Essex, Morris, Union
<input type="checkbox"/>		WKMB 1070	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WBBR 1130	Essex, Morris, Union
<input type="checkbox"/>		WLIB 1190	Essex, Morris, Union (Christian)
<input type="checkbox"/>		WMTR 1250	Essex, Morris, Union
<input type="checkbox"/>		WADO 1280	Essex, Morris, Union (Spanish)
<input type="checkbox"/>		WNSW 1430	Essex, Morris, Union (Portuguese)
<input type="checkbox"/>		WJDM 1530	Essex, Morris, Union (Spanish)
<input type="checkbox"/>		WQEW 1560	Essex, Morris, Union
<input type="checkbox"/>		WWRU 1660	Essex, Morris, Union (Korean)

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters) (Check all that applies)				
	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE	
TARGETS ENTIRE HOUSING REGION 2				
Monthly				
<input type="checkbox"/>		Sino Monthly	North Jersey/NYC area	Chinese-American
TARGETS PARTIAL HOUSING REGION 2				
Daily				
<input type="checkbox"/>		24 Horas	Bergen, Essex, Hudson, Middlesex, Passaic, Union Counties	Portuguese-Language
Weekly				
<input type="checkbox"/>		Arab Voice Newspaper	North Jersey/NYC area	Arab-American
<input type="checkbox"/>		Brazilian Voice, The	Newark	Brazilian-American
<input type="checkbox"/>		Catholic Advocate, The	Essex County area	Catholic
<input type="checkbox"/>		La Voz	Hudson, Union, Middlesex Counties	Cuban community
<input type="checkbox"/>		Italian Tribune	North Jersey/NYC area	Italian community
<input type="checkbox"/>		New Jersey Jewish News	Northern and Central New Jersey	Jewish
<input type="checkbox"/>		El Nuevo Coqui	Newark	Puerto Rican community
<input type="checkbox"/>		Banda Oriental Latinoamérica	North Jersey/NYC area	South American community
<input type="checkbox"/>		El Especialito	Union City	Spanish-Language
<input type="checkbox"/>		La Tribuna Hispana	Basking Ridge, Bound Brook, Clifton, East Rutherford, Elizabeth, Fort Lee, Greengarden, Linden, Lyndenhurst, Newark, North Plainfield, Orange, Passaic, Paterson, Plainfield, Roselle, Scotch Plains, Union, Union City, West NY	Spanish-Language
X	Once at start of Affirmative Marketing Process with additional monthly advertising if necessary.	Reporte Hispano	Regional	Spanish-Language
<input type="checkbox"/>		Ukrainian Weekly	New Jersey	Ukrainian community
3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)				

			07054
Union County			
<input type="checkbox"/>		A&M Industrial Supply Co	1414 Campbell St Rahway
<input type="checkbox"/>		A.J. Seabra inc,	574 Ferry St Newark
<input type="checkbox"/>		Bristol-myers Products Research & Dev	1350 Liverty Ave Hillside
<input type="checkbox"/>		Cede Candy Inc	1091 Lousons Road PO Box 271 Union, NJ
<input type="checkbox"/>		Comcast Network	800 Rahway Ave Union, NJ
<input type="checkbox"/>		HoneyWell Inc.	1515 West Blancke Street Bldgs 1501 and 1525 Linden, NJ
<input type="checkbox"/>		IBM Corporation	27 Commerce Drive Cranford, nj
<input type="checkbox"/>		Howard Press	450 West First Ave Roselle,nj
<input type="checkbox"/>		Lucent Technologies	600 Mountain Ave Murray Hill,NJ
<input type="checkbox"/>		Merck & Co. Inc	1 Merck Drive PO Box 2000 (RY60-200E) Rahway, NJ
<input type="checkbox"/>		Rahway Hospital	865 Stone Street Rahway, NJ
<input type="checkbox"/>		Rotuba Extruders, Inc	1401 Park Ave South Linden
<input type="checkbox"/>		Union County College	1033 Springfield Ave Cranford,NJ
Warren County			
<input type="checkbox"/>		Masterfoods USA	800 High Street Hackettstown, NJ
<input type="checkbox"/>		Warren Hospital	185 Roseberry St Phillipsburg, NJ
<input type="checkbox"/>		Roche Vitamins	206 Roche Drive Belvidere, NJ
<input type="checkbox"/>		Hackettstown Hospital	651 Willow Grove St. Hackettstown, NJ
<input type="checkbox"/>		Pechiney	191 Route 31 North Washington, NJ
<input type="checkbox"/>		Lopatcong Care Center	390 Red School Lane Phillipsburg, NJ
<input type="checkbox"/>		Mallinckrodt/Baker, Inc	222 Red School Lane Phillipsburg, NJ

Mountain Lakes Borough Hall

400 Boulevard

Mountain Lakes, NJ 07046

4c. Sales/Rental Office for units (if applicable)

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).

Name (Type or Print)

Title/Municipality

Signature

Date

Appendix L: Resolution Appointing Administrative Agent

Appendix M: Spending Plan

The Spending Plan will be adopted under separate cover.