



**AGENDA FOR THE COUNCIL MEETING OF THE BOROUGH OF MOUNTAIN LAKES
HELD AT THE BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES, NJ 07046
FEBRUARY 10, 2025
PUBLIC SESSION – BEGINS AT 7PM**

1) CALL TO ORDER AND OPEN PUBLIC MEETINGS ACT STATEMENT – Mayor

This meeting is being held in compliance with Public Law 1975, Chapter 231, Sections 4 and 13, as notice of this meeting has been reported to The Citizen, the Morris County Daily Record, and The Star Ledger on January 9, 2025 and posted in the municipal building.

2) ROLL CALL ATTENDANCE - Clerk

3) FLAG SALUTE – Mayor

4) EXECUTIVE SESSION

5) COMMUNITY ANNOUNCEMENTS

6) SPECIAL PRESENTATIONS

7) REPORTS OF BOROUGH ESTABLISHED BOARDS, COMMISSIONS AND COMMITTEES

8) BOROUGH COUNCIL DISCUSSION ITEMS

- a. Revised Land Use Ordinances
- b. 2025 Budget

9) PUBLIC COMMENT

Please state your name for the record. Each speaker is limited to one (1) comment of no more than five (5) minutes and no yielding of time to another person.

10) ATTORNEY'S REPORT

11) MANAGER'S REPORT

12) RESOLUTIONS

13) ORDINANCES TO INTRODUCE

- a. 1-25, Calendar Year 2025 Ordinance to Exceed the Municipal Budget Appropriation Limits and Establish a Cap Bank
- b. 2-25, Amending Chapter 173 of the Revised General Ordinances of the Borough of Mountain Lakes and Amending the Rules Governing Lakes, Parks, and Special Use Facilities
- c. 3-25, Amending Chapter 111 of the Revised General Ordinances of the Borough of Mountain Lakes and Revising the Fee Schedule

14) ORDINANCES TO ADOPT

15) *CONSENT AGENDA ITEMS

Matters listed as Consent Agenda Items are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

***RESOLUTIONS**

- a. *R77-25, Authorizing the Payment of Bills*
- b. *R78-25, Authorizing the Transfer of Appropriations*
- c. *R79-25, Authorizing a Professional Services Agreement for Lakes Management between the Borough of Mountain Lakes and Tigris Aquatic Services LLC*

***APPROVAL OF MINUTES**

1/27/25 (Regular)

1/29/25 (Regular)

***BOARD, COMMITTEE AND COMMISSION APPOINTMENTS**

16) DEPARTMENT REPORTS SUBMITTED FOR FILING

- ☐ Construction Department
- ☐ Department of Public Works
- ☐ Fire Department
- ☐ Health Department
- ☐ Police Department
- ☐ Recreation Department
- ☐ Code Enforcement/Property Maintenance
- ☐ Tax Collector

17) COUNCIL REPORTS

18) PUBLIC COMMENT

Please state your name for the record. Each speaker is limited to one (1) comment of no more than five (5) minutes and no yielding of time to another person.

19) NEXT STEPS AND PRIORITIES

20) ADJOURNMENT

Memorandum

To: Borough Council, Borough of Mountain Lakes
From: Kate Keller, AICP, PP
Date: October 17, 2024
Rev. November 18, 2024 & February 7, 2025
Re: Land Use Ordinance Overhaul
Revised Land Use Ordinances & Redline for Council Discussion

The following memo has been prepared in order to accompany the proposed Revised Borough of Mountain Lakes Land Use Ordinances, dated January 2025, and accompanying abridged redline, for your ease of review. Since our initial meeting November 2022, we have worked with the Borough Ordinance Committee to develop several iterations of a draft ordinance as well as accompanying memos highlighting the process and scope of work. In preparing the draft ordinances, we incorporated the Committee's comments, as well as recommendations from the 2023 Master Plan Reexamination Report, the Borough Zoning Board's annual report(s), and all ordinances that have been adopted in the preceding year. The proposed ordinance has also been thoroughly reviewed and vetted by Borough staff and professionals including Cindy Shaw, Planning & Zoning Board Secretary/Administrator; Bill Ryden, Borough Engineer; and Kevin Lewthwaite, Zoning Officer. The Ordinance Committee met on October 8, 2024 for final review, followed by a preliminary discussion item before the Borough Council on October 28, 2024 and final comments from the Ordinance Committee and Council members. The result is the proposed ordinance that is attached herein.

As described below, the most impactful change to the Land Use Ordinances is the consolidation of former Chapters 40 (Land Use Procedures), 208 (Subdivision of Land and Site Plan Review) and 245 (Zoning) are combined into one chapter entitled **Chapter 245, Land Use and Zoning**, which forms the core of the Borough's land use ordinance. We also have revised and amended Chapter 102, the Borough's environmental ordinance, which remains separate from the new Chapter 245. Below, we offer principal points to guide review and discussion of the ordinance.

Definitions & terminology

- All definitions – except those specifically related to Chapters 102 (Environmental Review & Regulations) – are consolidated in the new **Chapter 245, Land Use and Zoning**. The vast majority of definitions are included up front in Subsection 245-3, with the exception of those definitions that relate exclusively to the zoning incentives for the preservation of historic properties. These definitions – which can be found in 245-88 – include a number of common words (e.g., “existing” and “original”) and thus were separated for clarity.

- The new Chapter 245 includes a number of additions, deletions, and revisions additions to better meet the current needs of the Borough and conform to the Municipal Land Use Law and other legislation. Revisions were also based on recommendations from the Ordinance Committee, Zoning Board of Adjustment, and the 2023 Reexamination Report. Under advisement from the Borough Zoning Officer, we revised certain definitions relating to single-family dwellings that are intended to simplify the zoning permit process for Borough residents and staff alike. The changes include clarifying the exceptions to floor area; providing specific factors for measuring residential FAR in dwellings with cathedral or double-height ceilings; and confirming that the setback line required for principal structures also applies to any attached structure or appurtenances (such as front/rear stairs). New definitions were added that relate to the State-mandated Electric Vehicle ordinance and current federal statutes regulating wireless telecommunication facilities.

Chapter 102 – Environmental Ordinance

- Per request of the Ordinance Committee, the formal title of Chapter 102 has been revised to **Environmental Regulations**.
- Chapter 102, many definitions are technical in nature; are based on specific State statutes; or are used differently than in the general land use context and are thus more appropriately categorized in that section. Certain definitions have been moved to this Chapter from the former Chapter 40. Under advisement from the Borough Engineer, we have revised a number of definitions for clarity, grammar, and/or to reflect current engineering standards, while maintaining the overall scope and intent of the chapter
- Incorporates recently adopted tree ordinance, including all definitions and amendments.
- Clarifies responsibilities of Borough Engineer’s technical oversight for soil movement, surface water management for non-major applications, etc.

Schedules / Attachments

- Schedule I, the Table of Bulk Requirements, has been overhauled in order to create a new, user-friendly reference page. All current Borough zones have been incorporated into the table for easy reference. The majority of footnotes are proposed to be incorporated in the text of the consolidated Chapter 245, either in the specific district regulations or within Article XI, Bulk and Supplementary Zoning Regulations.
- Schedules II (Parking Setbacks) and III (Off-Street Parking Requirements) have been moved to the ordinance text at **§245-96**.
- Schedule VI (Reserved) is deleted
- Schedule V (Conservation Areas) is deleted; these are shown on the Zoning Map.
- New Schedule II is proposed to be the List of Contributing Dwellings. The existing application and checklist for Bulk Incentives for Contributing Dwellings is

referenced but is not required to be part of the ordinance; rather, it can be available via the Borough website and offices.

- Subdivision, Site Plan, and Variance checklists have been revised and are included as attachments to the ordinance, as required by the Municipal Land Use Law.

Wireless Telecommunication Facilities

The draft ordinance includes two sections that address applications for wireless telecommunication facilities. “Eligible facility requests” as newly defined in the Chapter are limited to certain collocations and minor improvements that are expressly permitted under Federal statute. In these cases, **§245-93** would apply, which provides for Zoning Officer review and approval where there is no “substantial change.” In all other cases (e.g., a new tower or similar), conditional use standards for would continue to apply. These have been slightly amended from the current ordinance and can be found at **§245-107**.

Steep slope ordinance

New steep slopes regulations are provided at **§245-90** of the new consolidated Chapter 245 and are intended to apply to all site plan applications, correcting a loophole in the existing ordinance where no such regulations existed. For single-family residential properties and single-family subdivisions, the building envelope requirements that prohibit slopes in excess of 15% would continue to apply (see **§245-86C** for building envelope regulations).

Bulk incentives for contributing dwellings

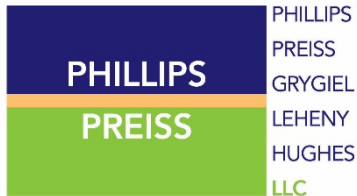
A new section is provided at **§245-88** to consolidate these requirements, which were previously split between Chapters 40 and 245. A footnote was also added to Schedule I to reference this section. Definitions related to same have been incorporated into this section, as described above.

Consolidated regulations for outdoor storage

A new subsection has been added under **§ 245-92**, *Outdoor sales, display or storage*, in order to address previously unregulated but common temporary accessory storage uses. Under the new ordinance, a zoning permit would be required for either type of temporary container, subject to time limitations related to open construction permit activity, as well as certain setback and locational requirements on the property. We recommend that the Borough’s general ordinances also be revised to address registration and/or fees (exempting single-family residences) related to these temporary structures.

Revisions to off-street parking & loading requirements

Off-street parking and (new) off-street loading requirements are located in a new, separate Article XII, Off-Street Parking and Loading. Required parking ratios have been moved from current Schedule III into an in-line ordinance section at **§245-95**.



Planning & Real Estate Consultants

Certain parking ratios have been slightly modified to reflect modern standards for specific uses that have changed since the ordinance was original adopted(e.g., retail, light industrial). Other portions of the current ordinance - including Schedule II (Parking setbacks) and the off-street parking standards under Supplementary Use Requirements – have also been consolidated into the new §245-95. New **§245-96C** provides off-street loading requirements, which are not included in the ordinance at present. The state-mandated Electric Vehicle standards are contained within the same Article at **§245-98**.

Sign ordinance

The sign ordinance has been reorganized as **Article XIV (§245-114 through 117)** to revise the definitions and institute minor changes to clarify the types, location, and size of permitted signs, particularly in the B and OL-1 & OL-2 Zones. The ordinance now explicitly permits one wall and one freestanding sign up to 30 square feet each in those zones (**§245-117C**) with exceptions for dual-frontage lots. No internally-illuminated signs are permitted, in accordance with current Borough standards; however, the ordinance does provide for LED external illumination to accommodate modern technology.

We look forward to the opportunity to discuss this at an upcoming Council meeting.

J22232

- **Bold** indicates chapter heading.
- Underlined indicates new text or chapter heading.
- ~~Strikethrough~~ indicates deleted text or chapter heading.
- *ITALICS* indicates comments/rationale for changes.

Chapter 102. Environmental Regulations ~~Factors; Soil, Water and Trees~~

Article I. General

§ 102-1 Short title.

§ 102-2 Purposes

§ 102-3 Enforcement.

§ 102-4 Definitions.

- A. For the purpose of this chapter, ~~unless from the context a different meaning clearly appears, the following words shall be defined as follows:~~ "Planning Board" shall also mean the Zoning Board of Adjustment for those cases that may come under Zoning Board of Adjustment review. Where a word is not defined herein this Chapter, the definition set forth in Chapter **245**, ~~§ 245-3~~ shall apply. Where a conflict arises, the definition in this chapter shall apply.
- B. For the purposes of this chapter, all other words shall be defined as set forth in the subsequent Articles.

~~SOIL~~

~~Includes surface, topsoil, soil and subsoil.~~

~~STRIPPING~~

~~Any activity which removes or significantly disturbs the vegetated surface cover of land, including clearing and grading operations and the like.~~

~~SUBSOIL~~

~~All soil beneath the top layer of soil, be it sand, gravel, clay, stone, rock, stone aggregate, dirt or a combination of one or more of the foregoing or otherwise.~~

- A. ~~For other definitions, see Chapter 40, § 40-3.~~

§ 102-5 Fees.

Article II. Environmental Impact Statement

§ 102-6 Requirement; purpose

- A. Each applicant, as part of submission to the Planning Board of an application for preliminary approval of a major subdivision or site plan, shall submit ~~an in digital and in~~ in digital and in original with ~~maps in reverse line sepia and 30 20~~ maps in reverse line sepia and 20 copies of an environmental impact statement relative to the proposed project submitted for approval to the Planning Board; ~~or an original and five copies of an environmental impact statement relative to the proposed project to the construction official in the case of a construction permit or certificate of occupancy, provided that the provisions of this subsection shall not apply to the erection, alteration or use of a single-family residential structure or structure accessory thereto which shall be used individually and not as a part of a development.~~
- B. - F. *NO CHANGES*

§ 102-7 Contents of statement.

§ 102-8 Review and approval.

Article III. Soil Moving

§ 102-9 Definitions.

As used in this article, the following terms shall have the meanings indicated below. Where a word is not otherwise defined herein, the definition set forth in Chapter **245**, ~~§ 245-3~~ shall apply.

SOIL

All unconsolidated mineral and organic material, of whatever origin, that overlies bedrock and can be readily excavated.

For the purposes of this article, "soil" shall mean both soil and subsoil, as defined in ~~§ 102-4~~.

STRIPPING

Any activity which removes or significantly disturbs the vegetated surface cover of land, including clearing and grading operations and the like.

SUBSOIL

All soil beneath the top layer of soil, be it sand, gravel, clay, stone, rock, stone aggregate, dirt or a combination of one or more of the foregoing or otherwise.

- § 102-10 (Reserved)**
- § 102-11 Permit required; exemptions.**
- § 102-12 Application requirements.**
- § 102-13 Permit application; review; fee.**
- § 102-14. Consideration guidelines.**
- § 102-15 Issuance of permit; time for completion of work; conditions.**
- § 102-16 Performance bond.**
- § 102-17 Care of land; responsibility of owner/lessee.**
- § 102-18 Other applicable regulations.**

- *NO CHANGES*

Article IV. Soil Erosion and Sedimentation Control

§ 102-19 Regulations.

- A. *NO CHANGE*
- B. In situations where none of the above subdivision or site plan approvals is required, it shall be unlawful for any person to create or cause any land disturbance greater than 5,000 square feet unless and until a soil erosion and sedimentation control plan shall have been submitted to and approved by the ~~Planning Board~~ Borough Engineer.

- § 102-20 Waiver.**
- § 102-21 Scope and contents of plan.**
- § 102-22 Implementation.**
- § 102-23 Maintenance.**
- § 102-24 Enforcement**
- § 102-25 Violations and penalties.**

Article V. Surface Water Management for Non-Major Applications

§ 102-26 Specific purposes.

- *CLARIFY THAT THIS DOES NOT APPLY TO NJDEP-REGULATED PROJECTS*

This Article shall apply to projects that do not meet the definition for “Major Development” in Chapter 202, Stormwater Management. This article shall be deemed essential and necessary to protect the public health, safety and welfare of the citizens of the Borough and the surrounding communities by accomplishing the following purposes:

A – D. *NO CHANGES*

§ 102-27 Procedure.

- *SPECIFY RESPONSIBILITY OF BOROUGH ENGINEER.*

A & B. NO CHANGES

C. Application for approval.

- (1) In cases where the development or alteration of land involves the construction of a building or other facility requiring site plan approval or a construction permit, the ~~construction official~~ Borough Engineer shall determine whether the development involves construction resulting in aggregate improved lot coverage equal to 5% or more of the area or 2,000 square feet, as aforesaid.

- If the extent of the development or alteration to be undertaken by the applicant is found to be exempt, the Borough Engineer ~~may direct the construction official~~ may proceed with the next step toward the issuance of a construction permit.
- The ~~construction official~~ Borough Engineer may waive the surface water management plan requirement if, after reviewing the application for any single-family house, he determines that surface water runoff hazards are not significant. ~~If he has any doubt about this waiver, he shall refer the question to the Planning Board.~~
- If the extent of the development or alteration to be undertaken requires approval with regard to the provisions of this article, or if the application would otherwise require approval by the Planning Board, the applicant shall proceed to submit a surface water management plan and other data as outlined herein to the ~~Planning Board at the same time the plans for development or alteration are submitted~~ Borough Engineer.

D. Data required. For engineering review by the Borough Engineer ~~and submission to the Planning Board~~, the surface water management plan shall contain:

- *NO FURTHER CHANGES*

§ 102-28 Review and approval.

- *SPECIFY RESPONSIBILITY OF BOROUGH ENGINEER.*

A. Surface water management plans shall be reviewed by the Borough Engineer ~~Planning Board with the advice and assistance of the Borough Engineer, Environmental Commission, Health Commission and any other agencies as may be appropriate.~~

B. The ~~Planning Board~~ Borough Engineer shall make a determination on such plans within 45 days of receipt of a complete application unless the ~~Planning Board~~ Borough Engineer and the ~~developer~~ applicant mutually agree upon an extension of the review time.

C. The ~~Planning Board~~ Borough Engineer, upon completing its review of the application and data, shall either approve, tentatively disapprove or disapprove the application. Upon approval, the construction official may

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proceed with the next step toward the issuance of a construction permit. If tentatively disapproved, the application and data shall be returned to the applicant for resubmittal.

- D. If the ~~Planning Board~~ Borough Engineer determines that the proposed land disturbance or construction will generate no surface water runoff that will not be managed in accordance with the provisions of this article, and will not be detrimental to the public health, safety and general welfare in light of the paramount interest in the prevention of conditions which may result in surface water runoff damage, the ~~Board plan~~ shall be approved ~~approve the plan~~.
- E. ~~If the Planning Board determines that the proposed land disturbance or construction will generate surface water runoff which will not be managed in accordance with the standards of this article or which will be detrimental to the health, safety and general welfare in light of the paramount public interest in the prevention of the conditions which may result in surface water runoff damage and environmental degradation, the Board shall tentatively disapprove the application. The Planning Board may also, at its sole discretion, disapprove the application.~~

§ 102-29 Maintenance.

Any person carrying out surface water management measures under this article, and all subsequent owners of the property upon which such measures have been carried out, shall ensure the correct functioning of such measures. The ~~Planning Board~~ Borough Engineer may require that maintenance bonds be posted as set forth in § ~~208-9B 245-62~~.

Article VI. Wellhead Protection Area Regulations

- § 102-30 Findings.**
- § 102-31 Purposes.**
- § 102-31 Statutory authority.**
- § 102-32.1. Definitions.**

GROUNDWATER

~~Water contained in interconnected pores of a saturated zone in the ground, also known as "well water." A saturated zone is a volume of ground in which the voids in the rock or soil are filled with water at a pressure greater than atmospheric.~~

POLLUTED WATER

~~In the context of drinking water, water is polluted when a pollutant is present in excess of a maximum contaminant level or bacteriological limit established by law or regulation.~~

PUBLIC COMMUNITY WELL

~~A public water supply well which serves at least 15 service connections used by year-round residents or regularly serves at 25 - least 25-year-round residents.~~
Groundwater well serving the public water system.

- § 102-32.2. Establishment of Wellhead Protection Areas and maps.**
- § 102-32.3 Regulation of Wellhead Protection Areas for public community wells.**
- § 102-32.4. Potential pollutant sources.**
- § 102-32.5 Best management practice performance standards.**
- § 102-32.6 Operations and contingency plan**
- § 102-32.7 Enforcement.**
 - *NO CHANGES*

Article VII. Preservation and Protection of Trees

- § 102-33 Purpose.**
- § 102-34 Definitions.**
- § 102-35 Street trees and shrubs in rights-of-way.**
- § 102-36 Permit required.**
 - **D(4)** Whether more than 50% up to a maximum of ~~three~~ two of the protected trees (which does not include dead trees) in the setback area have been or will be removed in a twelve-month period.
- § 102-37 Application procedure.**
- § 102-38 Exemptions.**
- § 102-39 Enforcement and Violations.**
 - *NO CHANGES from Ord. 10-24 (adopted September 2024).*

CHAPTER 245. LAND USE AND ZONING

Article I. General Provisions

~~§ 40-1~~ **§ 245-1. Short title.**

~~Chapters 40, 102, 208 and 245 shall be known and may be cited as the "land use ordinances"~~ This chapter shall be known and may be cited as the "Land Use Administration and Zoning Ordinance" of the Borough of Mountain Lakes.

~~§ 40-2~~ **§ 245-2. Purpose; enforcement; violations and penalties.**

- *UPDATED CHAPTER REFERENCES ONLY.*

~~§ 40-3~~ **§ 245-3. Definitions.**

- *SEE DEFINITIONS WORKBOOK (ATTACHED).*

Article II. Planning Board

§ 40-4	<u>§ 245-4</u>	Establishment; membership.
§ 40-5	<u>§ 245-5</u>	Terms of office.
§ 40-6	<u>§ 245-6</u>	Vacancies.
§ 40-7	<u>§ 245-7</u>	Officers.
§ 40-8	<u>§ 245-8</u>	Attorney.
§ 40-9	<u>§ 245-9</u>	Experts and staff.
§ 40-10	<u>§ 245-10</u>	Powers and duties generally.
§ 40-11	<u>§ 245-11</u>	Time limitations for Planning Board action.
§ 40-12	<u>§ 245-12</u>	Environmental Commission.
§ 40-13	<u>§ 245-13</u>	Rules and regulations.
§ 40-14	<u>§ 245-14</u>	Lack of quorum.

- *NO CHANGES; UPDATED CHAPTER REFERENCES ONLY.*

Article III. Zoning Board of Adjustment

§ 40-15	<u>§ 245-15</u>	Establishment; membership.
§ 40-16	<u>§ 245-16</u>	Terms of office.
§ 40-17	<u>§ 245-17</u>	Vacancies.
§ 40-18	<u>§ 245-18</u>	Officers.
§ 40-19	<u>§ 245-19</u>	Attorney.
§ 40-20	<u>§ 245-20</u>	Experts and staff.
§ 40-21	<u>§ 245-21</u>	Powers and duties generally.

- *NO CHANGES; UPDATED CHAPTER REFERENCES ONLY.*

~~§ 40-22~~ **§ 245-22** **Appeals and applications.**

- *DELETE COMPLETENESS CHECKLIST FROM IN-LINE TEXT (REDUNDANT).*

~~§ 40-23~~ **§ 245-23** **Reversal or modification on appeal.**

~~§ 40-24~~ **§ 245-24** **Time for decision.**

~~§ 40-25~~ **§ 245-25** **Rules and regulations.**

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§ 40-26	DELETED	(Reserved)
§ 40-27	<u>§ 245-26</u>	Lack of quorum.
§ 40-28	<u>§ 245-27</u>	Report.

- NO CHANGES

Article IV. Provisions Applicable to Both the Planning Board and Zoning Board of Adjustment

§ 245-28 **Completeness checklists.**

- NEW SECTION; Establishes specific completeness checklists to be utilized by Board(s).

§ 245-28 Completeness checklists.

In determining the completeness of applications, the Borough approving authority shall utilize the following completeness checklists which shall be available from the administrative officer and are hereby adopted as part of this ordinance:

- A. Variance Application Checklist
- B. Subdivision Checklist (Preliminary/Final/Minor)
- C. Site Plan Checklist (Preliminary/Final/Minor)

§ 40-29	<u>§ 245-29</u>	Conflicts of interest.
§ 40-30	<u>§ 245-30</u>	Meetings.
§ 40-31	<u>§ 245-31</u>	Minutes.
§ 40-32	<u>§ 245-32</u>	Fees.
§ 40-33	<u>§ 245-33</u>	Additional refundable escrow fees and court reporter costs.
§ 40-34	<u>§ 245-34</u>	Public hearings.
§ 40-35	<u>§ 245-35</u>	Notice requirement for hearing.
§ 40-36	<u>§ 245-36</u>	List of property owners furnished.
§ 40-37	<u>§ 245-37</u>	Registration by public utilities, cable television companies and local utilities to receive notice of applications.
§ 40-38	<u>§ 245-38</u>	Decisions.
§ 40-39	<u>§ 245-39</u>	Payment of taxes.
§ 40-40	<u>§ 245-40</u>	Pending applications.
§ 40-41	<u>§ 245-41</u>	Copy of chapter to be filed with County Planning Board.
§ 40-42	<u>§ 245-42</u>	Expiration of variance.

- NO CHANGES TO TEXT; UPDATED CHAPTER REFERENCES ONLY.

Article V. Plans, Maps and Programs

§ 40-43 **§ 245-43** **Master Plan.**

- *ADD CURRENT MLUL REQUIREMENTS FOR MASTER PLANS & REEXAMINATION*

A. The Master Plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams, and text, presenting at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (13), all as more particularly described in N.J.S.A. 40:55D-28:

(1) *NO CHANGES*

(2) A land use plan element.

(a) Taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (17) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands;

(b) Showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, open space, educational and other public and private purposes or combination of purposes including any provisions for cluster development; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance;

(c) Showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et al.);

(d) Including a statement of the standards of population density and development intensity recommended for the municipality;

(e) Showing the existing and proposed location of military facilities and incorporating strategies to minimize undue encroachment upon, and conflicts with, military facilities, including but not limited to: limiting heights of buildings and structures nearby flight paths or sight lines of aircraft; buffering residential areas from noise associated with a military facility; and allowing for the potential expansion of military facilities;

(f) Including, for any land use plan element adopted after the effective date of P.L.2017, c.275, a statement of strategy concerning:

[1] Smart growth which, in part, shall consider potential locations for the installation of electric vehicle charging stations,

[2] Storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and

[3] Environmental sustainability;

(g) Showing the existing and proposed location of public electric vehicle charging infrastructure; and

(h) Including, for any land use plan element adopted after the effective date of P.L.2021, c.6, a climate change-related hazard vulnerability assessment which shall (i) analyze current and future threats to, and vulnerabilities of, the municipality associated with climate change-related natural hazards, including, but not limited to increased temperatures, drought, flooding, hurricanes, and sea-level rise; (ii) include a build-out analysis of future residential, commercial, industrial, and other development in the municipality, and an assessment of the threats and vulnerabilities identified in subsubparagraph (i) of this subparagraph related to that development; (iii) identify critical facilities, utilities, roadways, and other infrastructure that is necessary for evacuation purposes and for sustaining quality of life during a natural disaster, to be maintained at all times in an operational state; (iv) analyze the potential impact of natural hazards on relevant components and elements of the master plan; (v) provide strategies and design

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standards that may be implemented to reduce or avoid risks associated with natural hazards; (vi) include a specific policy statement on the consistency, coordination, and integration of the climate-change related hazard vulnerability assessment with any existing or proposed natural hazard mitigation plan, floodplain management plan, comprehensive emergency management plan, emergency response plan, post-disaster recovery plan, or capital improvement plan; and (vii) rely on the most recent natural hazard projections and best available science provided by the New Jersey Department of Environmental Protection.

(3) - (12) *NO CHANGES*

(13) A green buildings and environmental sustainability plan element, which shall provide for, encourage, and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider, encourage and promote the development of public electric vehicle charging infrastructure in locations appropriate for their development, including but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops; consider the impact of buildings on the local, regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on-site; and optimize climatic conditions through site orientation and design; and

(14) *NO CHANGES*

B. *NO CHANGES*

C. The Borough Council shall, at least every ~~six~~ ten (10) years, provide for a general reexamination of its Master Plan and development regulations by the Planning Board, which shall prepare a report on the findings of such reexamination. This periodic examination is regulated by the Municipal Land Use Law, N.J.S.A. 40:55D-89.

~~§ 40-44~~ **§ 245-44** **Official Map.**

~~§ 40-45~~ **§ 245-45** **Capital improvement program.**

- *NO CHANGE*

Article VI. Historic Preservation

~~§ 40-46~~ **§ 245-44** **Official Map.**

~~§ 40-47~~ **§ 245-45** **Capital improvement program.**

~~§ 40-48~~ **§ 245-48** **Designation of historic landmarks and historic districts.**

~~§ 40-49~~ **§ 245-49** **~~Special zoning requirements~~ Establishment of bulk incentives for contributing dwellings.**

- *CURRENT TEXT OF THIS SECTION MOVED TO § 245-88*
- *Sets forth purpose and eligibility for bulk incentives & references zoning regulations for same at §245-88.*

In order to provide an incentive for the preservation of contributing dwellings within historic districts, properties containing contributing dwellings and meeting the eligibility requirements of § 245-88 are eligible for the enhanced bulk requirements set forth at § 245-88, subject to the application review, documentation, and approval procedures set forth in that section.

~~§ 40-50~~ **§ 245-50** **Demolitions and relocations.**

~~§ 40-51~~ **§ 245-51** **General**

- *NO CHANGES TO TEXT; UPDATED CHAPTER REFERENCES ONLY.*

Article VII. Zoning Permits and Certificates

~~§ 40-52~~ **§ 245-52** **Zoning permits required.**

- *REVISE to include all forms/registrations that may be required by ordinance.*
- D. The Zoning Officer shall have the authority to promulgate any checklists ~~and/or~~, application forms and/or registrations necessary for the administration of this section, including the submission and review of any business or other registration forms if required by Borough Ordinance.

§ 245-53 **Building permit, certificate of occupancy required.**

- *NEW SECTION TO CONSOLIDATE SIMILAR TOPICS.*
- *TEXT MOVED FROM CURRENT §245-15B & C*

CHAPTER 208. SUBDIVISION OF LAND AND SITE PLAN REVIEW**Article I. General Provisions Article VIII. Subdivision of Land and Site Plan Review**

§ 208-1	DELETED	Short title:
§ 208-2	§ 245-54	Purpose; approving agency; administration.
§ 208-3	DELETED	Definitions:
§ 208-4	SEE § 245-54	Approving agency and administration:

§ 245-54. Purpose; approving agency; administration.

- *NEW SECTION TO CONSOLIDATE SIMILAR TOPICS.*
 - *Text moved from current § 208-2 & § 208-4D w/ revisions below.*
- A. The purpose of this ~~chapter~~ Article shall be to provide rules, regulations and standards to guide land subdivision and site development in the Borough.
- B. The provisions of this article shall be administered by the Borough Planning Board in accordance with N.J.S.A. 40:55D-37 et seq. or the Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-76.
- C. Any action taken by the Planning Board under this article shall give primary consideration to the health, safety and welfare of the citizens of the Borough. However, if the applicant can clearly demonstrate that because of conditions pertaining to the premises the literal application of one or more of these rules, regulations and standards is impracticable or will exact undue hardship, the Planning Board may permit such change or changes therefrom as may be reasonable and within the general purpose and intent of the rules, regulations and standards.
- D. The provisions of the ~~land use administration chapter~~ Articles II, III, and IV shall govern the submission and processing of applications for subdivision and site plan approval.

§ 208-5	§ 245-55	Applications; procedure for filing.
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- *NO CHANGES TO TEXT*

§ 245-56 Environmental impact statement

- *NEW SECTION to specify that EIS is required per terms of Chapter 102.*

Each applicant, as part of submission to the Planning Board or Zoning Board of an application for approval of a major subdivision or site plan, shall an environmental impact statement relative to the proposed project, prepared in accordance with Article II of Chapter 102 of the Borough Code.

§ 208-6	§ 245-57	Subdivision review and approval.
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- *CONSOLIDATES §208-6 AND §208-12*

§ 208-7	§ 245-58	Subdivision submission requirements.
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- *REVISED FOR CONSISTENCY w/ new tree ordinance & to add HPC checklist.*
- A. Common requirements. Plats shall be drawn on sheets measuring 24 inches by 36 inches. They shall show or include the following information:
- (1) - (17) *NO CHANGES.*
 - (18) Location of all ~~major~~ trees 6" or greater DBH and tree masses.
 - (19) Historic Preservation Checklist for Certification, delivered to Historic Preservation Committee.
- B. *NO CHANGES*
- C. Minor subdivision plats. A minor subdivision plat shall be prepared by a New Jersey licensed professional engineer

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or land surveyor and shall meet the requirements of Subsection **A** above. In addition, the plat shall show all existing structures and trees ~~over four inches in diameter~~ 6" or greater DBH on the tract.

~~§ 208-8~~ **§ 245-59** **Utilities**

- *TEXT MOVED FROM CURRENT §208-11*

~~§ 208-9~~ **§ 245-60** **Certificate showing approval of subdivision.**

- *TEXT MOVED FROM CURRENT §208-13*

~~§ 208-10~~ **§ 245-61** **Violations and penalties.**

- *TEXT MOVED FROM CURRENT §208-8*

~~§ 208-11~~ **§ 245-62** **Installations and improvements.**

- *REVISED FOR CONSISTENCY w/ current MLUL requirements & new tree ordinance*

A. ~~Installations.~~ Prior to the ~~granting~~ filing of final approval, subdivision plats or recording of minor subdivision deeds; or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, ~~the subdivider the developer~~ shall have installed or shall have furnished performance guarantees as permitted pursuant to § 245-63 for the ultimate installation of the following ~~where as required or deemed necessary~~ or appropriate by the Planning Board or Board of Adjustment:

(1) through (3) – *NO CHANGE*

(4) Shade trees shall be located as approved by the Borough Shade Tree Commission in the right-of-way so as not to interfere with utilities or sidewalks. Shade trees shall be of the species listed in the "Recommended List of Replacement Trees" maintained on the Borough website and kept on file in the office of the Borough Clerk; or any species approved by the Shade Tree Commission.

(5) through (6) – *NO CHANGE*

B. All of the above listed improvements shall be subject to inspection and approval by the Borough Engineer who shall be notified by the developer at least 48 hours prior to the commencement of construction. No underground installation shall be covered until inspected and approved. No topsoil shall be removed from the site or used as spoil unless approved by the Planning Board. Topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting. Nothing herein shall be deemed to waive any requirement of Chapter **102** ~~and shall be of any of the following types:~~

~~{1}—Norway maple.~~

~~{2}—Cattery pear.~~

~~{3}—Pin oak.~~

~~{4}—Any other species approved by the Shade Tree Commission.~~

C. *NO CHANGE*

D. Notwithstanding any other provision of this chapter, no certificate of occupancy shall be issued to the subdivider until all improvements as shown on the approved improvement plans are installed and approved by the Borough Engineer, except such permit may be issued:

(1) On certification in writing by the Borough Engineer that all improvements listed in this section and §254-63 have been installed or improved; that the best interests of the Borough require a delay for engineering reasons before the subdivider completes the other improvements; and that the subdivider posts a cash bond in the amount approved by the Borough Engineer for that portion of the improvements yet to be completed and maintenance of those completed in the particular section affecting the building in question.

(2) *NO CHANGE*

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E. & F. *NO CHANGE*

§ 245-63 Performance and maintenance guarantees

- *NEW SECTION*

- *INCORPORATES PORTIONS of current § 208-11; revised to reflect current MLUL requirements*

A. Performance guarantees. The Borough of Mountain Lakes may require and shall accept in accordance with N.J.S.A. 40:55D-53 and 53.1, a developer to furnish a performance guarantee in favor of the Township for the purpose of assuring the installation and maintenance of certain on-tract improvements, in accordance with the following:

- (1) The amount of the performance guarantee shall not exceed 120% of the cost of installation of only those improvements set forth herein as required by an approval, developer's agreement, ordinance, or regulation to be dedicated to a public entity and have not been installed. The cost of installation shall be determined and/or approved by the Borough Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 in an itemized cost estimate, which shall be appended to each performance guarantee posted by the obligor. The following improvements as shown on the approved plans or plat shall be included in the calculation of cost of installation for the purposes of a performance guarantee: streets, pavement, gutters, curbs, sidewalks, streetlighting, street trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law," P.L.1960, c.141 (C.46:23-9.9 et seq.; repealed by section 2 of P.L.2011, c.217) or N.J.S.46:26B-1 through N.J.S.46:26B-8, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements.
- (2) A performance guarantee shall also include, within an approved phase or section of a development, privately-owned perimeter buffer landscaping, as required by local ordinance or imposed as a condition of approval. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.
- (3) A successor developer shall furnish a replacement performance guarantee in accordance with this section as a condition to the approval of a permit update under the State Uniform Construction Code, for the purpose of updating the name and address of the owner of the property on a construction permit.
- (4) Ten (10%) percent of every performance guarantee shall be in the form of cash or a certified check payable to the Borough of Mountain Lakes, with the remaining 90% provided by a bonding or surety company authorized to serve as a surety in the State of New Jersey and approved by the Borough Council and Borough Attorney as to form pursuant to N.J.S.A. 40:55D-53b; cash or a certified check; an irrevocable letter of credit pursuant to N.J.S.A. 40:55D-53.5; or such other security as may be approved by the Borough Council.

B. The Borough may require a developer to furnish a "safety and stabilization" guarantee in favor of the Borough. At the developer's option, a "safety and stabilization" guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee.

- (1) The "safety and stabilization" guarantee shall be available to the municipality solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:
 - (a) Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and
 - (b) Work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee. The Borough shall not provide notice of its intent to claim payment under a "safety and stabilization guarantee" until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Borough shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.

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- (2) The amount of a “safety and stabilization guarantee” for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.
 - (3) The amount of a “safety and stabilization guarantee” for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000.
 - (4) The Borough shall release a separate “safety and stabilization guarantee” to a developer upon the developer’s furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.
 - (5) The Borough shall release a “safety and stabilization guarantee” upon the Borough Engineer’s determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.
- C. Maintenance guarantees. The developer shall post with the Borough, prior to the release of a performance guarantee required pursuant to this section, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.
- (1) The maintenance guarantee shall be posted, upon the inspection and issuance of final approval of the following site improvements by the Borough Engineer, in an amount not to exceed 15% of the cost of the installation: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in N.J.S.A. 40:55D-53.4.
 - (2) Every maintenance guarantee shall be expressly conditioned upon maintenance by the developer of all covered improvements for a period of two years, and particularly shall guarantee the remedying of any defects in such improvements which occur during that period. The maintenance guarantee shall further guarantee the replacement of any shade trees found to be unhealthy within two years of planting.
 - (3) In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required for such utilities or improvements.
 - (4) Notwithstanding anything to the contrary herein or set forth in the Municipal Land Use Law, the Borough may use all or any part of moneys deposited in connection with a maintenance guarantee to the extent necessary to complete or repair required improvements, and such action by the Borough shall not relieve any obligor and/or surety of its obligations in connection with the maintenance guarantee.
- D. Without limiting the foregoing in any way, the provisions of N.J.S.A. 40:55D-53, 53a, 53b, 53c, 53.3, 53.4, and 53.5 and N.J.S.A. 40:55D-53.5 shall apply to all guaranties submitted to the Borough of Mountain Lakes in accordance with this section.

~~§ 208-10~~ **§ 245-64** **Design standards for subdivisions and site plans.**

- *CLARIFY applicability to both subdivision & site plans*
- *TEXT MOVED FROM § 208-10 w/ updated chapter references*

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Article III. Site Plan Review

~~§ 208-14 &~~ **Informal Review**

~~§ 208-15~~ **245-65** **Approval Site plan review and approval.**

- *CONSOLIDATES § 208-14 (INFORMAL REVIEW) AND § 208-15 (APPROVAL) w/ updated chapter references*

~~§ 208-16~~ **245-66** **Enforcement and guaranties.**

- *REVISED TO CLARIFY jurisdiction of enforcement.*

A. With respect to any application for a construction permit or a certificate of occupancy related to a site plan approved pursuant to this chapter, the Construction Official, Code Enforcement Official or Zoning Officer may require such evidence as may be necessary to determine whether or not the proposed use will reasonably conform to the requirements of this section and to the site plan previously approved by the Planning Board.

B. through D. *NO CHANGE*

~~§ 208-17~~ **245-67** **Site plan submission and design requirements.**

- *REVISED FOR CONSISTENCY w/ new tree ordinance & to add HPC checklist.*

A. The site plan shall show or include the following information:

(1) - (17) *NO CHANGES.*

(18) Location of all ~~major~~ trees 6" or greater DBH and tree masses.

(19) - (31) *NO CHANGES.*

(32) Historic Preservation Checklist for Certification, delivered to Historic Preservation Committee.

~~§ 208-18~~ **245-68** **Residential site improvement standards.**

- *Text moved from § 208-18 w/ updated chapter references.*

~~§ 208-19~~ **245-69** **Additional ~~design-submission~~ requirements for wireless telecommunications facilities**

- *Revise title to accurately reflect content of section*
- *Excludes eligible facility requests (see § 245-93)*

If a site plan proposes the placement, construction, erection or modification of a wireless telecommunications facility (excluding eligible facility requests as defined in this chapter), in addition to the applicable documentation and items of information required for site plan approval, the following additional documentation and items of information are required to be submitted to the Planning Board or Board of Adjustment for review and approval as part of the site plan submission:

A. - E. *NO CHANGES*

CHAPTER 245. ZONING

Article I. General Provisions:

- | | | |
|---------|---------|--------------------------|
| § 245-1 | DELETED | Short title: |
| § 245-2 | DELETED | Purpose and conformance: |
| § 245-3 | DELETED | Definitions: |

Article II. ~~Article IX.~~ Zoning Districts and; Zoning Map; Schedule of Requirements.

- | | | |
|--|-----------------|----------------------------------|
| § 245-4 | § 245-70 | Zoning districts. |
| <ul style="list-style-type: none">• <i>DELETE RC-1 Residential Zone</i>• <i>REVISE FOR CONSISTENCY w/ zoning map; RC-1 Zone no longer exists.</i> | | |
| § 245-5 | § 245-71 | Zoning Map. |
| <ul style="list-style-type: none">• <i>NO CHANGE</i> | | |
| § 245-6 | DELETED | |
| | § 245-72 | Schedule of Requirements. |
| <ul style="list-style-type: none">• <i>TEXT MOVED FROM § 245-19 w/ updated chapter references.</i> | | |

Article IV. Use Regulations—Article X. Zoning District Regulations

~~§ 245-7~~ **§ 245-73** **Residential Zones R-AA, R-A, R-1 and R-2.**

- *TEXT MOVED FROM § 245-7 w/ updated chapter references*
- *SPECIFY Home Occupation as both accessory & conditional use*
- *STREAMLINE conditional use standards (see new **Article XIII**)*

B. Permitted accessory uses.

- (1) through (3) *NO CHANGE*
- (4) Those home occupations or professions that have no nonresident employees, no client visitors, show no visible external evidence of the occupation and have no other negative impact on the neighborhood. Such occupation shall be considered accessory uses subject to the following conditions:
- (5) *NO CHANGE*
- (6) Affordable accessory apartments in accordance with Article XVIII of this chapter.

C. Conditional uses ~~(see also § 245-16).~~

- (1) Home occupations that do not meet the defined requirements of an accessory use at Subsection B(4) above, subject to the provisions of **§ 245-100.**
- (2) Clubs, subject to the provisions of § 245-101. ~~except clubs whose chief activity is a service carried on as a business and provided that any clubhouse or open terrace adjacent thereto, swimming area, handball, tennis, badminton and similar small games area or parking lot shall be located at least 50 feet from any residential lot line and provided that the use is such as not to create undue noise beyond the lot lines.~~
- (3) - (4) *NO CHANGE*

~~§ 245-8~~ **§ 245-74** **Residential Zones ~~RC-1, RC-2~~ and RC-3.**

~~§ 245-9~~ **§ 245-75** **Residential — Affordable Housing (R-AH) Zone.**

~~§ 245-9.1~~ **§ 245-76** **Residential — Affordable Housing 2 (R-AH2) Zone.**

~~§ 245-9.2~~ **§ 245-76** **Residential — Affordable Housing 3 (R-AH3) Overlay Zone.**

- *TEXT MOVED FROM RESPECTIVE CURRENT SECTIONS w/ updated chapter references.*

~~§ 245-10~~ **§ 245-77** **Business Zone A.**

- *TEXT MOVED FROM CURRENT § 245-10 w/ updated chapter references.*
- *REMOVE “sexually oriented establishments” as a conditional use.*

B. Permitted accessory uses.

- (1) - (4) *NO CHANGE*
- (5) Affordable accessory apartments in accordance with Article XVIII of this chapter.

C. Conditional uses: None.

~~a. —Sexually oriented establishments in accordance with the following standards:~~

D. Prohibited uses. The following uses are expressly prohibited:

~~a. Sexually oriented establishments. except as provided for in Subsection C above.~~

~~§ 245-11~~ **§ 245-78** **Business Zone B.**

- *TEXT MOVED FROM CURRENT § 245-11 w/ updated chapter references.*
- *CLARIFY language re permitted & conditional uses.*

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- *MOVE ALL CONDITIONAL USE STANDARDS to new Article XIII. NO CHANGE to list of conditional uses.*
 - A. Permitted principal uses are the same as in § ~~245-77A~~ ("Business Zone A") ~~except that automobile service stations, dry cleaning establishments, motels, hotels and businesses using hazardous substances shall be excluded.~~ In addition, the following principal uses shall be permitted:
 - (1) - (7) *NO CHANGES*
 - B. Permitted accessory uses. Same as § 245-77B ~~except that affordable accessory apartments shall not be permitted.~~

~~§ 245-12~~ **§ 245-79** **Office and Light Industrial Zones OL-1 and OL-2.**

- *TEXT MOVED FROM CURRENT § 245-12 w/ updated chapter references.*
- *PROVIDE DIRECT REFERENCE to assisted living facilities as conditional use (no change to actual use)*
- *CONSOLIDATE existing supplemental requirements; D(1), (4) to (7) MOVED from § 245-15.I and D(2) & (3) MOVED from Footnotes to Schedule I.*
- C. Conditional uses. ~~See also § 245-10C; § 245-9.2:~~
 - a. Assisted Living Facilities.
- D. Supplemental regulations. In addition to the bulk requirements set forth in Schedule I, the following regulations shall apply to the OL-1 and OL-2 Zones:
 - (1) A planted buffer, measured 100 feet deep from the property boundary, shall be provided within any OL-1 or OL-2 Zone along any lot line abutting a residential ~~area use~~ or zone. The plant materials and the planting design shall be in accordance with criteria for such plantings in ~~Chapter 208, Subdivision of Land and Site Plan Review Article VIII.~~
 - (2) Principal side and rear yard building setbacks shall apply as set forth in Schedule I where any OL-1 or OL-2 Zone abuts a residential use or zone. Principal side and rear may be reduced to 50 feet along nonresidential boundaries.
 - (3) A landscaped area of not less than 20 feet in depth shall be provided along all rights-of-way, except to allow for driveway access.
 - (4) to (7) – *NO CHANGE*

~~§ 245-13.1~~ **§ 245-80** **Office, Light Industrial/R-1 Residential Overlay Zone OL- 2/R-1.**

~~§ 245-14~~ **§ 245-81** **Conservation Zone C.**

~~§ 245-14.1~~ **§ 245-82** **Office and Light Industrial Zone OL-1/Multifamily Affordable Housing Overlay.**

~~§ 245-14.2~~ **§ 245-83** **Office and Light Industrial OL-2/Multifamily Affordable Housing Overlay.**

- *Text moved from respective current chapters w/ updated chapter references*

~~§ 245-15~~ *Now VARIOUS* **Supplementary use regulations**

~~§ 245-16~~ *Now **ARTICLE XIII*** **Conditional Use Requirements**

~~§ 245-17~~ *Now **ARTICLE XIV*** **Signs**

~~§ 245-18~~ *Now **ARTICLE XV*** **Nonconforming uses and buildings.**

~~§ 245-18.1~~ **DELETED** **Pipelines**

Article XI Bulk and Supplementary Zoning Requirements.

§ 245-84 General zoning provisions.

- *CONSOLIDATES current § 245-2A; § 245-2B; § 245-150*
- *REMOVE reference to "OL" zones as other zones permit multiple principal buildings.*
 - C. Number of principal buildings. Except as provided in OL zones for specifically in this Chapter, only one principal building may be erected on any one lot.

§ 245-85 Lot regulations and exceptions.

- *CONSOLIDATES SIMILAR TOPICS from Footnote 8, Footnote 10, Footnote 12 from Schedule I*
 - A. Cul-de-sac turnarounds. The lot frontage for residential lots located at a cul-de-sac turnaround shall not may be reduced to not less than 50 feet, provided that the distance along lot width at the building setback line shall meet the lot frontage requirement for the zone.
 - B. In a residential zone, the shortest distance between the side lines shall not be less than 90% of the required frontage, except as set forth in ~~Note 8~~ § 245-85A above.
 - C. A corner lot shall be considered to have front yards on all streets.

§ 245-86 Yard regulations and exceptions.

- *CONSOLIDATES SIMILAR TOPICS from § 245-20A, 20B, 20C, 20G, 20H*
 - C(2) ~~DELETE RG-1 Zone~~
 - D(5) Entrance Front and rear entrance stairs of not more than six feet in width along the wall of the building, nor projecting more than 10 feet from the wall, and subject to a ruling by the reviewing board.

§ 245-87 Residential building height.

- *TEXT MOVED FROM FOOTNOTE 17, SCHEDULE I; revised only for clarity.*

§ 245-88 Bulk incentives for contributing dwellings.

- *TEXT MOVED FROM § 40-49; only changes are to indicate that Checklist is not part of ordinance, but rather on Borough website, and to update chapter references.*
- *DEFINITIONS MOVED from § 40-3 due to specific applicability*
- B. Definitions. The following definitions shall be specifically applicable to this subsection § 245-88.
- C. Documentation and approval of bulk incentives eligibility.
 - (1) *NO CHANGE*
 - (2) Whenever an applicant seeks Borough approval of a construction permit in reliance on the bulk incentives, or makes any other application to the Zoning Board of Adjustment or the Planning Board relying in whole or in part on eligibility for the bulk incentives, the applicant shall submit all of the following as part of the submission of the applicant's application:
 - (a) A fully completed checklist, available on the Borough website and by request from the Borough Zoning Officer, and certification in the form of Appendix A to this article from a New Jersey licensed professional architect that any alterations (including any proposed alterations) made to the contributing dwelling after the bulk incentives effective date comply with all of the requirements of **§ 245-88C** and that the architect is familiar with the publication entitled, "Historic Mountain Lakes-Restoration and Renovation Handbook." In order to enable access to the foregoing publication by certifying architects, the Committee shall publish such publication on its website and make physical copies of such publication available upon written request.

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§ 245-89 **Accessory uses and structures.**

- *CONSOLIDATES SIMILAR TOPICS from §245-15K; 15P; 15Q; 15V w/ minor revisions noted below.*

A. General requirements for all accessory uses and structures.

- (1) All accessory uses and structures shall be included in computing improved lot coverage, except where indicated herein.
- (2) No accessory structure or improvement shall be constructed unless and until a zoning permit has been issued and, except in the case of fences, either a construction permit or a certificate of occupancy or approval, as applicable, has been issued for the main use or structure to which it is accessory.
- (3) & (4) *NO CHANGE*

B. Location of accessory uses and structures.

- (1) *NO CHANGE*
- (2) No accessory structure shall be located closer to a street line than the principal building on the lot, except a freestanding stone wall in accordance with § 245-89C(2)a.
- (3) When any accessory structure, except a fence or wall, is attached to or is located within 10 feet of the principal building, it shall be considered a part of such building and as such shall comply with all regulations applicable to the principal building.

C. Fences and walls. Fences in excess of 18 inches in height shall constitute accessory structures, which are permitted in all zones. Such fences shall be subject to the standards set forth below.

(1) In Zones A, B, OL-1 and OL-2:

- (a) No fence is permitted in a front yard. No wall except a retaining wall as defined herein shall be constructed closer to a street line than the closest setback of the principal building.
- (b) In a side or rear yard, the maximum height of a fence shall be six feet and the fence need not conform to setback requirements.
- (c) No fence may be electrified or contain razor or barbed wire.

(2) *NO CHANGE*

- (3) Fences around areas to be used solely to compost vegetation ~~These~~ may be of wire construction suitable for the purpose and ~~do not need to conform~~ shall not be subject to setback requirements, provided they do not exceed four feet in height, eight feet in length on any side or 64 square feet in area, ~~nor encompass~~ and no more than two areas are provided on one lot.

(4) & (5) *NO CHANGE*

D. Dish antennas.

- (1) In residential zones, a dish antenna shall be permitted as an accessory use or structure under the following conditions:

- (a) through (c) *NO CHANGE*

- (d) ~~A roof-mounted dish antenna is permitted as a conditional use, subject to the provisions of § 245-16A, and subject to the following specific regulations:~~

(2) *NO CHANGE*

- (3) A construction permit is required for any antenna installation. The fee shall be as specified in § 111-3B of this Code.

E. Emergency generators. *NO CHANGE*

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§ 245-90 **Regulations applicable to steep slope areas.**

- *NEW SECTION; current ordinance does not address steep slopes for site plan applications.*
- A. Any property which is the subject of an application for development and which contains slope areas of 15% or greater (hereafter "steep slopes") shall include a slope disturbance analysis as part of any application for development. The slope analysis shall include the following information:
 - (1) A tabulation of the land areas within the following slope categories on the entire tract:
 - (a) 0 to 14.99%
 - (b) 15% to 19.99%
 - (c) 20% to 24.99%
 - (d) 25% or greater
 - (2) A tabulation of the land areas in the above listed slope categories within the building area that are proposed to be disturbed.
 - (3) Calculations showing the land areas of disturbance of each slope category within the building area as compared to the land area of slopes in each category on the entire tract. The maximum allowable slope disturbances within the building area as a percentage of land area in each slope category on the entire tract shall be as set forth in the following table:

<u>Slope Category</u>	<u>Maximum Slope Disturbance</u>
<u>0 to 14.99%</u>	<u>100%</u>
<u>15% to 19.99%</u>	<u>30%</u>
<u>20% to 24.99%</u>	<u>10%</u>
<u>25% or greater</u>	<u>0%</u>
- B. Within areas having slopes of 25% or greater, no development, including regrading or stripping of vegetation, shall be permitted unless such activity is essential for the construction of linear development such as a roadway or driveway crossing, required utility construction, stormwater management control pipes, drainage paths, swales or channels or other like necessary improvement. The applicant must demonstrate to the satisfaction of the reviewing board or other official having jurisdiction that such disturbance activity is necessary to fulfill the essential service requirements of the development and that there is no practical alternative to it.
- C. Land development plans which have received Planning or Zoning Board approval prior to the adoption date of this article shall be exempt. Proof of exemption eligibility shall be determined by the Zoning Officer.

§ 245-91 **Like buildings.**

- *Text moved from current § 245-15N w/ clarification*
- A. No construction permit shall be issued for the erection of any building for occupancy as a single-family detached dwelling if it is like or substantially like any neighboring building then in existence, or for which a building permit has been issued, in more than three of the following six respects:
 - (1) through (6) – *NO CHANGE*

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§ 245-92 **Open lot sale Outdoor sales, display or storage.**

- *A & C - CONSOLIDATES similar topics from current § 245-15D & 15T w/ minor administrative revisions.*
 - *B - ADDS NEW standards for outdoor trailers container storage.*
- B. Outdoor storage containers or trailers, including tractor-trailers, closed rolloff or shipping containers, or temporary portable storage containers such as PODS, shall be permitted on a site as follows:
- (1) One (1) such container shall be permitted on a lot, for a period not to exceed thirty (30) days, or in the case of active construction projects, the time period during which the construction permit remains open or one hundred and eighty (180) days, whichever is less.
 - (2) Application shall be made to the Zoning Officer and include a survey, aerial image or plan, depicting the proposed location of the outdoor storage container on the site; information as to the nature and length of time of its location on the property; and remittance of all applicable fees. There shall be no fee associated with this application for single-family residential properties.
 - (3) The outdoor storage container shall be located on asphalt, concrete, or other impervious surface and shall not be located closer than 10 feet from any side or rear lot line or front right-of-way line.
 - (4) No outdoor storage container shall be located within the street, right-of-way, or in any location that would obstruct sidewalk access.
 - (5) The outdoor storage container shall be removed immediately upon expiration of the zoning permit or completion of the construction project. If applicable, no certificate of occupancy or approval shall be issued until the outdoor storage container is removed.

§ 245-93 **Wireless telecommunications facilities.**

- *NEW SECTION to replace § 245-15U*
 - *INCORPORATES REQUIREMENTS FOR COLLOCATION per federal statute & provisions for removal of abandoned facilities*
- A. This section implements Section 6409(a) of the Middle Class Tax Relief Job Creation Act of 2012 ("Spectrum Act") as interpreted by the Federal Communications Commission's ("FCC") Acceleration of Broadband Deployment Report and Order, which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.
- B. Wireless telecommunications facilities that do not meet the definition of "eligible facilities request" as set forth in this chapter shall be permitted in all zones as a conditional use and subject to the regulations at § 245-107.
- C. An eligible facilities request that does not substantially change the dimensions of an existing wireless telecommunications facility shall comply with the following:
- (1) Shall not increase the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, shall not increase the height of the structure by more than 10% or more than 10 feet, whichever is greater;
 - (2) Shall not involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (3) For any eligible support structure, it shall not involve installation of more than the standard number of new

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equipment cabinets for the technology involved, but not to exceed four cabinets; or, installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure. It shall not entail any excavation or deployment outside the current site; it shall not defeat the concealment elements of the eligible support structure; or it complies with all conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in Subsections (1), (2), and (3) of this subsection.

- D. Type of review. The Borough Zoning Officer is the reviewing authority for eligible facilities requests involving no substantial change. The Borough Planning Board or Zoning Board may assist with review of such application to determine whether the application qualifies.
- E. Prior municipal approvals. Applications for eligible facilities requests involving no substantial change must confirm, to the Zoning Officer's satisfaction, that the existing tower or base station, and all existing wireless telecommunications facilities located thereon, are lawfully in existence, and have been previously granted all necessary municipal land use and development approvals.
- F. Time frame for review. Within 60 days of the date on which an applicant submits an application seeking approval under this section, the Zoning Officer shall approve the application unless it is determined that the application is not covered by this section.
- G. Tolling of the time frame for review. The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the applicant and the Zoning Officer's written consent, or in the cases where the application is deemed incomplete.
- H. To toll the time frame for incompleteness, the Zoning Officer must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
- I. The time frame for review begins running again when the applicant makes a supplemental submission in response to the notice of incompleteness by the Zoning Officer.
- J. Following a supplemental submission, the Zoning Officer will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- K. The Zoning Officer must memorialize his or her final decision by written approval or denial of the zoning permit application. The approval or denial must include a list of the plans and documents that comprised the application, with references to the dates, titles, and other descriptive features of those plans and documents.
- L. If the Zoning Officer determines that the applicant's request is not covered by the Spectrum Act as delineated under this section, the presumptively reasonable time frame under 42 U.S.C. 332(c)(7), as prescribed by the FCC, will begin to run from the issuance of decision that the application is not a covered request by the Zoning Officer.
- M. Removal of abandoned wireless telecommunications facilities. Any wireless telecommunications facility that has not operated for a continuous period of 12 months shall be considered abandoned. If there are two or more users of a single wireless telecommunications facility, then the abandonment shall not become effective until all users cease using the wireless telecommunications facility for a continuous period of 12 months. Unless the Council of the Borough of Mountain Lakes shall authorize continuance of an antenna on terms acceptable to the Council, the owner of the property shall remove same within 90 days of notice from the Zoning Officer that the wireless telecommunications facility is abandoned. If such wireless telecommunications facility is not removed within said

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90 days, the Borough of Mountain Lakes may remove such wireless telecommunications facility at the owner's expense. If the facility is to be retained, the provider(s) shall establish that the facility will be reused within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. At the discretion of the Zoning Officer, upon good cause shown, the one-year reuse period may be extended for a period not to exceed one additional year.

§ 245-94 Cannabis establishments and uses prohibited.

- *NO CHANGE; Text moved in entirety from current § 245-15W*

Article XII. Off-Street Parking & Loading

§ 245-95 Off-street parking.

- *CONSOLIDATES SCHEDULE II, SCHEDULE II, and § 245-15L w/ following revisions:*
- A. Off-street parking shall be provided in accordance with the accompanying Schedules II and III requirements of this section unless otherwise specified in this Chapter.
- B. *NO CHANGE*
- C. Minimum off-street parking requirements for specific uses: (*ONLY CHANGES FROM SCHEDULE III ARE NOTED*)

Use	Requirement
Adult <u>day-care</u> facility	1 space per 200 square feet of floor area
Assisted living residence	1 space per 2 <u>units</u> beds
Banks, savings institutions	1 per 100 200 square feet of floor area
Light manufacturing	1 per 300 1,000 square feet of floor area
<u>Nursing home</u>	<u>1 per 4 beds, plus 1 per employee on maximum shift</u>
Office:	
Business / General	1 per 200 250 square feet of floor area
Professional / <u>Medical</u>	1 per 200 square feet of floor area
Residences	<u>1 for each car owned by a resident, minimum 2 per dwelling unit</u> Per RSIS
Retail <u>sales</u> or service	1 per 250 square feet of total floor space
Service stations, <u>automobile or gasoline</u>	3 per bay, plus 1 per employee in the maximum shift <u>or 1 per 125 square feet of building floor area, whichever is greater.</u>
- D. *NO CHANGE*
- E. The requirements for uses not listed in Subsection C above shall be the same as for the most similar use which is listed. For mixed uses, the requirement shall be the total of the requirements for each use computed separately. Where no similar use is listed, the requirement shall be as determined by the Planning Board based upon recognized national parking standards, such as Urban Land Institute or Institute of Traffic Engineers.
- F. through L. *NO CHANGE*

§ 245-96 Off-street loading.

- *NEW SECTION; NO PROVISIONS IN CURRENT ORDINANCE FOR OFF-STREET LOADING.*
- A. Off-street loading. Every building utilized for commercial or industrial purposes or any other use involved in the receipt or distribution of merchandise, materials, or supplies, shall provide and permanently maintain off-street loading and unloading space. This shall not apply to such activities as personal service establishments, professional

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offices, business offices and similar uses, provided that these activities and uses can demonstrate that they do not normally send or receive any materials or supplies by means of large trucks or by tractor-trailer.

- B. Every use requiring off-street loading space shall provide such spaces at the side or rear of the principal building in accordance with the following schedule:

Square Feet of Floor Area	Minimum Number of Off-Street Loading Spaces
<u>0 to 2,500</u>	<u>0</u>
<u>2,500 to 10,000</u>	<u>1</u>
<u>10,000 to 25,000</u>	<u>2</u>
<u>Each additional 20,000 or fraction thereof</u>	<u>1 additional</u>

- C. Where required, each loading space shall measure at least 12 feet in width and 45 feet in length, and shall have a vertical clearance of at least 14 feet in height.

§ 245-97 Parking and storage of vehicles in residential zones

- *CONSOLIDATE §245-15F and 15M w/ updated chapter references and minor administrative revisions*

§ 245-98 Electric vehicle supply/service equipment (EVSE) and make-ready parking spaces

- *NEW SECTION*
- *INCORPORATES REQUIRED EV MODEL ORDINANCE per P.L.1975, c.291 and MLUL*

- A. Purpose. The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:

- (1) Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
- (2) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
- (3) Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
- (4) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

- B. Definitions. See §245-3 for definitions related to EVSE and make-ready parking spaces.

- C. Approvals and permits.

- (1) An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
- (2) EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in (1) above.
- (3) All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (4) The Zoning Officer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of the Borough of Mountain Lakes' land use regulations.
- (5) An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service

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station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:

- (a) the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
 - (b) all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 - (c) the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- (6) An application pursuant to Section 5. above shall be deemed complete if:
- (a) the application, including the permit fee and all necessary documentation, is determined to be complete,
 - (b) a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - (c) a one-time written correction notice is not issued by the Zoning Officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
- (7) EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
- (8) A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

D. Requirements for New Installation of EVSE and Make-Ready Parking Spaces

- (1) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
 - (a) prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 - (b) within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 - (c) within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
 - (d) Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
 - (e) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (2) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in (1) above shall:
 - (a) Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - (b) Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - (c) Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.

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- (d) Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
- (e) Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
- (f) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
- (g) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (h) Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

E. Minimum Parking Requirements

- (1) All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to **\$245-95C**.
- (2) A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
- (3) All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- (4) Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged, but shall not be required in development projects.

F. Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

- (1) Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
- (2) Installation:
 - (a) Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
 - (b) Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
 - (c) To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
 - (d) Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (3) EVSE Parking:
 - (a) Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.
 - (b) Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

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- (c) Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be is subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code. Signage indicating the penalties for violations shall comply with Section 5. below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
- (d) Private Parking. The use of EVSE shall be monitored by the property owner or designee.
- (4) Safety
 - (a) Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.
 - (b) Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with the Borough's ordinances and regulations.
 - (c) Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
 - (d) EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
 - (e) Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
 - (f) Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
 - (g) Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the Borough of Mountain Lakes shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.
- (5) Signs
 - (a) Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is

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- at the discretion of the owner.
- (b) All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
 - (c) Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with (5)(b) above.
 - (d) In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
 - [1] Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
 - [2] Usage fees and parking fees, if applicable; and
 - [3] Contact information (telephone number) for reporting when the equipment is not operating or other problems.
 - (6) Usage Fees. Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

Article XIII. Conditional Use Requirements.**§ 245-99 General Provisions**

- *TEXT MOVED FROM § 245-16A w/ administrative revisions*

§ 245-100 Home Occupations

- *TEXT MOVED FROM CURRENT § 245-16B w/ updated chapter references & administrative revisions*

§ 245-101 Clubs.

- *TEXT MOVED FROM CURRENT § 245-7C & 16C*

§ 245-102 Public and private schools; places of worship; places of assembly; noncommercial recreation centers such as YMCAs; and philanthropic institutions.

- *TEXT MOVED FROM CURRENT § 245-16D in accordance w/ 2024 ordinance*

§ 245-103 Child care centers in residential zones.

- *TEXT MOVED FROM CURRENT § 245-16E & CONSOLIDATED w/ current § 245-15S; update chapter references.*
 - A. Child care centers shall ~~meet~~ be licensed under the requirements of § 245-15S New Jersey Child Care Center Licensing Law, N.J.S.A. 30:5B-1 et seq., and/or any other statutes and regulations as may from time to time apply.

§ 245-104 Cluster development.

- *TEXT MOVED FROM CURRENT § 245-16F ; Delete references to RC-1 Zone & update chapter references*

§ 245-105 Zero lot lines options.

- *TEXT MOVED FROM CURRENT § 245-16G; Delete references to RC-1 Zone & update chapter references*

§ 245-106 Townhouse option in the RC-3 Zone

- *TEXT MOVED FROM CURRENT § 245-16H; update chapter references*

§ 245-107 Wireless telecommunications facilities.

- *TEXT MOVED FROM CURRENT § 245-16I; add introduction to specify conditional use applicability.*
 - A. Applicability. The following conditional use standards shall apply to all wireless telecommunication facilities that do not meet the definition of “eligible facilities request” as defined in this chapter.

§ 245-108 Assisted living facility.

- *TEXT MOVED FROM CURRENT § 245-16J; update chapter references*

§ 245-109 Hotels

- *TEXT MOVED FROM CURRENT § 245-11C(2)*

§ 245-110 Gasoline station; automobile service stations

- *TEXT MOVED FROM CURRENT § 245-11C(3) & consolidated w/ current § 245-15E*
- *TITLE UPDATED to reflect ordinance terminology.*

§ 245-111 Drive-in restaurants; restaurants with drive-through facilities

- *TEXT MOVED FROM CURRENT § 245-11C(4)*

§ 245-112 Self-Storage Facilities

- *TEXT MOVED FROM CURRENT § 245-11C(5)*

§ 245-113 Sexually Oriented Establishments

- *TEXT MOVED FROM CURRENT § 245-11C(1) w/ new intro only:*

Sexually oriented established shall be permitted as a conditional use in the B Zone only, subject to all applicable regulations in this chapter, a review by the Planning Board and the following conditions:

Article XIV. Signs**§ 245-114 Purpose; Definitions**

- *TEXT MOVED FROM § 245-16A w/ updated chapter references*
- *RE-CATEGORIZE TERMS as “functional sign definitions” or “physical sign definitions”*
- **SEE DEFINITIONS WORKBOOK (ATTACHED)**

§ 245-115 General regulations.

- *INCORPORATES CURRENT SECTION § 245-17 w/ revisions noted below.*
 - *SIGN AREA MEASUREMENT: TEXT MOVED from current definition at § 245-17B*
 - *NEW ILLUMINATION SECTION: created to permit (external) LED lighting and incorporate existing text at § 245-17D(2).*
 - *PROVIDE PROVISIONS for directional signs; consolidate regulations by sign type, then zone*
- A. NO CHANGE
- B. ~~Limits.~~ Content of signs. Signs shall be limited to ~~indicate those identifying the name, business, uses, occupants, products, or services, uses or occupants~~ of the premises on which they are located.
- C. Through E. NO CHANGE.
- F. Sign area measurement. The area of any sign shall be computed as the product of the largest horizontal width and the largest vertical height of the lettering, illustration, display, frame, background or combination of these elements. This shall not be construed to include the supporting members of any sign which are used solely for such purpose. For signs with two display faces (back-to-back), the maximum area requirement shall be permitted on each side.
- G. Illumination. Only externally illuminated signs are permitted, subject to the following standards:
- (1) Permitted external illumination types.
 - a. Halo lights placed behind individual reverse pan-channel letters.
 - b. Spotlights which are directed to shine directly on the sign. Such lights shall be directed and/or shielded so as not to shine onto neighboring property or into the eyes of passing motorists.
 - c. All bare bulbs, tubes and other light sources must be shielded from view from any point on a public right-of-way and from adjacent residential lots.
 - (2) LED lights should be used wherever feasible. Regardless of the type of illumination employed, the sign shall be properly shielded and located so as to prevent glare or blinding effects upon any line of moving traffic and so as not to be offensive to residents of the area.
 - (3) No outdoor sign shall remain illuminated after 9:00 p.m. unless the establishment using the sign is open to the public for business.
- H. Provisions applicable to specific sign types. The following provisions shall apply to all zones unless otherwise set forth in this Article.
- (1) Construction signs. No construction sign shall have any moving parts or be constructed of any reflective material, and no such sign shall be illuminated ~~or exceed 20 square feet in area~~, and no part of such sign shall

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be higher than six feet above finished grade.

(2) Directional signs. Directional signs having areas of less than three square feet are exempt from area and location regulations but shall be shown on an approved site plan. The Zoning Officer may authorize or require in writing additional signs for directional and safety purposes.

(3) Bulletin boards. In any zone a single-faced bulletin board not to exceed 18 square feet in area shall be permitted and shall serve only to identify and announce the services and activities of a park, public or parochial or independent school, library, church, community center or other similar community facility or institution. Such bulletin board shall be located on the site of the community facility or institution, no closer than 10 feet to any street line or any lot line, and no portion thereof shall be higher than six feet above finished grade.

~~(1) Wall and window signs. The total area of all wall signs, including permanent window signs, shall not exceed 10% of the wall area of the side of the building fronting on the street or 40 square feet, whichever is less. Temporary signs may be placed in windows and may be in addition to the signs otherwise permitted on the premises.~~

(4) Real estate signs. One unilluminated real estate sign not more than 12 square feet in area in nonresidential zones and four square feet in area in residential zones is permitted on the premises to which it relates.

(5) Projecting signs. Where permitted, no projecting sign shall exceed the lowest roofline or 12 feet in height, whichever is less, nor shall it be so low as to endanger the health and safety of pedestrian and vehicular traffic. In no event shall the projecting sign be lower than eight feet. A sign shall not project more than two feet from the wall.

(6) Political, religious or other signs conveying statements which are within the protection, of any provision of the Constitution of the United States shall be permitted except that no such sign shall be greater than 12 square feet, and shall otherwise conform to the provisions of this chapter.

I. Prohibited signs. Signs of the following types, or types closely related to them, are specifically prohibited in all zones:

(1) Moving signs; wind signs; roof signs; banners; oscillating, rotating, flashing or other intermittent-type signs.

(2) General advertising signs.

J. Removal. After a use, advertised by a sign, has been abandoned or terminated, the owner of the premises shall be responsible for the immediate removal of such sign. If such sign is not removed within 30 days after such abandonment or termination, the Construction Official shall cause removal of such sign, and cost of such removal shall be a lien on the premises.

K. Nonconforming signs. No nonconforming sign shall be altered, enlarged and/or reconstructed, except in such a manner as to comply with the requirements of this chapter.

§ 245-116 Permitted signs in residential zones..

- *CONSOLIDATES TEXT MOVED FROM CURRENT § 245-17D w/ new specific regulations*

A. Except as otherwise expressly provided in **§ 245-115**, no sign other than those hereinafter provided in this section shall be permitted in any residential zone.

B. One single-faced personal identification sign plate no larger than 50 square inches overall, which may be placed on the wall of the building, shall be permitted.

C. Single-faced property identification signs conforming to the following conditions shall be permitted:

(1) The maximum area of each such sign shall be one square foot.

(2) No more than two such signs shall be permitted.

D. House numbers.

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- (1) House numbers shall be a minimum height of four inches and shall be placed in a conspicuous location at least 24 inches above the grade where located so as to be clearly visible from the street as per **Chapter 164, § 164-3**.
- (2) House numbers may not exceed 8 inches in height, whether on a freestanding sign, on the house, or painted on a rock. They may not be painted on trees or utility poles as per **§ 164-3**.
- E. For ~~conditional~~ home occupations ~~permitted as a conditional use per § 245-100~~, one single-faced identification sign, which may also specify the service or profession, not over two square feet in area, shall be permitted. Only one sign per dwelling unit shall be permitted.
- F. Each contractor, while working on the premises, shall be permitted one construction sign of not over six square feet in area, ~~subject to the requirements of § 245-115H(1)~~.
- G. No sign except property identification signs shall be located closer than 10 feet to any front lot line or to any residence lot line.
- H. No portion of any ~~freestanding~~ sign ~~permitted in this section~~ shall be more than six feet above finished grade.

§ 245-117 Permitted signs in non-residential zones.

- *CONSOLIDATES TEXT MOVED FROM CURRENT § 245-17E w/ new specific regulations*
- A. General regulations.
 - [1] ~~The following signs shall be permitted on premises in business zones: business signs, one real estate sign (freestanding or wall), one construction sign (freestanding or wall).~~
 - [2] ~~The number of identification and business signs on premises is limited to any combination of two of the following: one wall sign, one freestanding sign, one projecting sign.~~
 - (1) Front yard setback. No part of any freestanding sign shall be closer than 10 feet to any front lot line or residence lot line, or 5 feet to any other side lot line. In specific situations for safety, the Zoning Officer may require a greater setback.
 - (2) Signs may be externally illuminated per § 245-115G. No outdoor sign shall remain illuminated after 9:00 p.m. unless the establishment using the sign is open to the public for business.
 - (3) In shopping or business centers containing more than one establishment, directory signs which are a part of the aggregate sign allowance for individual establishments are permitted and encouraged. The directory, if freestanding, shall constitute the one freestanding sign permitted for each individual establishment.
 - (4) Stores in structures with more than one store and with direct access from the side or rear may have an identification sign of not more than two square feet next to, over, or on the side or rear entrance.
 - (5) Each contractor or construction professional, while working on the premises, shall be permitted one construction sign of not over 20 square feet in area, subject to the requirements of § 245-115H(1).
 - B. Permitted signs in Business Zone A:
 - (1) Two signs, which may be wall signs, canopy signs, projecting signs or freestanding signs, aggregating not more than 30 square feet in area shall be permitted. Wall signs shall be located on the street-facing side(s) of the building.
 - (2) In no event shall the permitted area of all signs on any premises exceed 10% of the overall surface of the street wall. For purposes of computing the street wall, the height of the building wall shall not exceed 15 feet for one-story structures or 25 feet for two or more story structures.
 - (3) No sign of any kind shall exceed three feet above the lowest roof line or 12 feet in height, whichever is less.
 - C. Permitted signs in Business Zone B and Office and Light Industrial Zones OL-1 and OL-2

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~~[1]—Two signs aggregating not more than 40 square feet in area shall be permitted:~~

- ~~(1) One wall sign measuring not more than 30 square feet in area shall be permitted. Wall signs shall be located on the street-facing side of the building, except that if a property has two frontages, a second wall sign shall be permitted for a total of two wall signs, in which case the aggregate shall not exceed 50 square feet in area. No signs will be permitted on rear walls or side walls when said wall abuts a residential use or zone or any public or institutional use.~~
- ~~(2) One freestanding sign measuring no more than 30 square feet in area shall be permitted; if a property has two frontages, two such freestanding signs shall be permitted.~~
- ~~(3) No sign of any kind shall exceed 18 feet in height above finished grade.~~
- ~~(4) All applications for signs in OL-2 and OL-2 Zones applications for signs shall conform to the requirements of Subsections A, B, C and D(2)(a) [3] through [7] and shall be reviewed and approved or denied by the Planning Board, in accordance with the site plan provisions of the land use ordinance.~~

Article XV. Nonconforming Uses, Structures and Buildings

§ 245-118 Continuance

- *TEXT MOVED FROM CURRENT § 245-18 w/ updated chapter references (except § 245-18E – see below)*

§ 245-119 Completion of construction; restoration of existing buildings

- *TEXT MOVED FROM CURRENT § 245-15H w/ updated chapter references & revisions noted below*
- *ADD REFERENCE to cubical volume as method for establishing “destruction” (industry standard)*

- A. Completion of construction. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a construction permit has been issued, or for which plans and a construction permit application are on file and pending at the time of the passage of this chapter, provided such plans and intended use conform with the ordinance in effect at the time the application was made, and provided the construction of the building is diligently prosecuted after the permit is granted and completed within one year thereafter.
- B. Restoration. Nothing herein contained shall prevent the restoration of a building destroyed for any reason, including, but not limited to, fire, explosion, act of God, act of war, voluntary demolition or negligence, to the extent of no more than 50% of its true reproduction value or 50% of its cubical volume of the building at the time of the partial destruction, or prevent a change of its existing use under the limitations provided in **§ 245-118**, but any building destroyed in the manner aforesaid to an extent exceeding 50% of its true reproduction value or 50% of its cubical volume of the building at the time of such destruction may be reconstructed and thereafter used only in such a manner as to conform to all the provisions of this chapter.
- C. No structure in process of completion or demolition and no ruins from fire or other casualty shall be abandoned in a disorderly, unsightly or hazardous state. Such structure shall be considered to have been abandoned when work to remedy the improper condition has not been initiated within 60 days after the occasion of the casualty, or, if initiated, work has been discontinued with the owner's consent for 30 or more consecutive days or for more than 30 days out of 60 days. Each day's abandonment shall be considered as a separate violation of this provision of this chapter.

§ 245-120 Certificate of non-conformity

- *TEXT MOVED FROM CURRENT § 245-18E.*

Article XVI. Performance Standards & Hazardous Uses

§ 245-121 Performance standards.

- *TEXT MOVED FROM CURRENT § 245-15J w/ updated chapter references*

§ 245-122 Hazardous use of land.

- *TEXT MOVED FROM CURRENT § 245-15G*

Article VI. Article XVII. Affordable Housing

§ 245-21	<u>§ 245-123</u>	Purpose.
§ 245-22	<u>§ 245-124</u>	Monitoring and reporting requirements.
§ 245-23	<u>§ 245-125</u>	Definitions.
§ 245-24	<u>§ 245-126</u>	Borough-wide mandatory set-aside.
§ 245-25	<u>§ 245-127</u>	Accessory apartment program.
§ 245-26	<u>§ 245-128</u>	New construction.
§ 245-27	<u>§ 245-129</u>	Occupancy standards.
§ 245-28	<u>§ 245-130</u>	Control periods for restricted ownership units and enforcement mechanisms.
§ 245-29	<u>§ 245-131</u>	Price restrictions for restricted ownership units, homeowner association fees and resale prices.
§ 245-30	<u>§ 245-132</u>	Buyer income eligibility.
§ 245-31	<u>§ 245-133</u>	Limitations on indebtedness secured by ownership unit; subordination.
§ 245-32	<u>§ 245-134</u>	Control periods for restricted rental units.
§ 245-33	<u>§ 245-135</u>	Price restrictions for rental units; leases.
§ 245-34	<u>§ 245-136</u>	Tenant income eligibility.
§ 245-35	<u>§ 245-137</u>	Municipal Housing Liaison.
§ 245-36	<u>§ 245-138</u>	Administrative agent.
§ 245-37	<u>§ 245-139</u>	Affirmative marketing requirements.
§ 245-38	<u>§ 245-140</u>	Enforcement of affordable housing regulations.

- *NO CHANGES to any section. All text moved in entirety from current Article VI.*

Article VII. Article XVII. Affordable Accessory Apartments

§ 245-21	<u>§ 245-123</u>	Applicability and purpose.
§ 245-22	<u>§ 245-124</u>	Definitions.
§ 245-23	<u>§ 245-125</u>	Minimum standards.
§ 245-24	<u>§ 245-126</u>	Affordability controls.
§ 245-25	<u>§ 245-127</u>	Program compliance.
§ 245-26	<u>§ 245-128</u>	Sunset clause.
§ 245-27	<u>§ 245-129</u>	Applicability and purpose.

- *NO CHANGES to any section. All text moved in entirety from current Article VIII.*

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Chapter 102. Environmental Regulations.

Article I. General

§ 102-1. Short title.

This chapter may be known and cited as the "Environmental Ordinance of the Borough of Mountain Lakes."

§ 102-2. Purposes.

The purposes of this chapter are to:

- A. Provide regulations for environmental impact statements.
- B. Regulate and control excavation and removal of soil for sale or use other than on the premises.
- C. Control, minimize and protect against all soil erosion and resulting sedimentation and pollution of surface and ground water resources which can occur during periods of land disturbance.
- D. Limit the rate and velocity and regulate and control the volume of surface water runoff created by the alteration of the ground cover and natural runoff patterns.
- E. Limit depletion and pollution of the Borough's groundwater resources to protect the health, safety and welfare of the residents of the Borough and surrounding communities.
- F. Protect trees from unintentional harm caused during development activities.

§ 102-3. Enforcement.

The provisions of this chapter shall be enforced by the construction official, Code Enforcement Official or the Borough Engineer, if authorized by the Planning Board. The enforcement agent shall inspect the work undertaken in connection with a plan or a permit. In the event of failure to comply with any condition of this chapter, the enforcement agent may revoke the construction permit or certificate of occupancy, issue stop orders and generally take such action as may be justified under the circumstances. Any person aggrieved by the action or decision by the enforcement agent taken hereunder may appeal such action or decision to the Planning Board. A decision of the Planning Board relating to enforcement hereof may be appealed to the Borough Council.

§ 102-4. Definitions.

- A. For the purpose of this chapter, "Planning Board" shall also mean the Zoning Board of Adjustment for those cases that may come under Zoning Board of Adjustment review. Where a word is not defined herein this Chapter, the definition set forth in Chapter **245**, § **245-3** shall apply. Where a conflict arises, the definition in this chapter shall apply.
- B. For the purposes of this chapter, all other words shall be defined as set forth in the subsequent Articles.

§ 102-5. Fees.

Application and review fees for items in this chapter are set forth in Chapter **111**, Fees.

Article II. Environmental Impact Statement

§ 102-6. Requirement; purpose.

- A. Each applicant, as part of submission to the Planning Board of an application for approval of a major subdivision or site plan, shall submit in digital and in original with 20 copies of an environmental impact statement relative to the proposed project submitted for approval to the Planning Board.

- B. The environmental impact statement shall be prepared by a person or firm having expertise in the environmental field, by virtue of training, experience or education. The person or firm shall demonstrate their qualifications to the satisfaction of the Planning Board.
- C. The Planning Board may require that the applicant provide specialists to testify on important issues. If the proposed development is located in a Wellhead Protection Area, the Planning Board may require assessment by a professional geologist to ensure compliance with all applicable regulations.
- D. An environmental impact statement as required herein shall also be submitted as to all public or quasi-public projects unless they are exempt from the requirements of local law by supervening county, state or federal laws.
- E. The Planning Board may waive the requirement for an environmental impact statement, in whole or in part, if sufficient evidence is submitted to support a conclusion that the proposed project will have a negligible environmental impact or that a complete environmental impact statement need not be prepared in order to evaluate adequately the environmental impact of a project.
- F. The purpose of requiring an environmental impact statement shall be to permit the Planning Board to assess the impact of the proposed project upon the environment, especially with respect to water and air resources, pollution of all kinds, drainage, waste disposal, the landscape or any other pertinent environmental factors.

§ 102-7. Contents of statement.

The environmental impact statement shall include the following. To avoid duplication, reference may be made to subdivision or site plan application documents, if any:

- A. Plan and description of development. A project description, complete with maps and drawings, which shall specify what is to be done and how it is to be done, during construction and operation. The description shall include, but not be limited to, contours, buildings, roads, paved areas, grading and regrading, adjacent natural streams, stream encroachment boundaries, the project's relation to surrounding property and utility lines, and buffer zones for noise and light control.
- B. Inventory of existing environmental conditions. An inventory of existing environmental conditions at the project site and in the affected region shall describe sewer facilities, water supply, water quality, hydrology, air quality, traffic noise, and light characteristics levels, noise, light, demography, geology, topography, slope, soils and properties thereof, including capabilities and limitations, vegetation, wildlife, wildlife habitat, aquatic organisms, land use, aesthetics, historical site, and archaeological features. Air and water quality shall be described with reference to standards promulgated by the Department of Environmental Protection of the State of New Jersey, and soils shall be described with reference to the Morris County Soil Conservation District Standards and Specifications.
- C. Assessment of the anticipated impact project.
 - (1) An assessment, supported by environmental data, of the environmental impact of the project. The assessment shall include an analysis of the public costs to include data, source and assumptions of the project, including, but not limited to, the costs of additional schools, roads, police, fire protection, water supply, sewerage disposal, and other similar direct and indirect costs of the project, including the effect on recreational facilities, open space, and other similar municipal services. When possible, the assessment shall describe the anticipated impacts with reference to standards as may be determined by federal, state, and local statutes.
 - (2) For proposals involving the Wellhead Protection Area, see Article **VI**. The Planning Board may request an assessment of the anticipated impact on conditions mentioned in Subsection **B** but not specifically covered in Subsection **C** or on other conditions as may be appropriate to meet the intent of the chapter.
 - (a) Sewerage facilities. Show that sewage can be disposed of through facilities adequate to

preclude air and water pollution, and:

- [1] If disposal is on-site: data on underlying geology, water table, soils analysis, soil stratigraphy, percolation tests for every sewage disposal site, topography, location and depth of aquifers and depth, capacity, and type of construction of all wells within 500 feet of site, and any other pertinent data; or
 - [2] If disposal is off-site: a plan for disposal with a detailed description of expected quantity and classification of sewage effluent and acceptance in writing by the receiving facility; and
 - [3] Compliance with all state and local sewage and health regulations.
- (b) Solid waste disposal. A plan for disposal by means of a facility operating in compliance with the state sanitary code, including suitable temporary on-site storage.
 - (c) Hazardous waste disposal. Identification and satisfactory provisions for disposal of hazardous materials as defined.
 - (d) Water supply. Evidence that an adequate water supply is available and the ratio of total anticipated demand to available supply, with source, shall be indicated.
 - (e) Surface water runoff (drainage). A plan to comply with the requirements of Article V.
 - (f) Wellhead Protection Area. Development activities in this area shall conform to Article VI
 - (g) Traffic, vehicular and pedestrian. An inventory of existing traffic, and a statement of the projected effect of anticipated traffic on all internal, access and bordering roads.
 - (h) Air quality. A statement of anticipated effect on air quality due to on-site activities such as heating incineration, any processing of materials, and traffic. Compliance with federal and state standards shall be required.
 - (i) Noise. A statement of anticipated effects on noise levels, magnitude and characteristics related to on-site activities and proposed methods of control.
 - (j) Artificial light. A statement of anticipated effects on light levels, magnitude and characteristics related to on-site activities and proposed methods of control with particular attention to the control of sky glow.
 - (k) Demography. A statement of the on-site and off-site effect on the utilization of public facilities due to changes in population density.
- D. Mitigations. The steps to be taken to minimize adverse environmental impacts during construction and operation which may be approved by the Planning Board shall constitute conditions of the approval of the environmental impact statement, together with such other conditions as the Planning Board may impose. All work may be stopped by the construction official if specified construction restraints are not followed. No certificate of occupancy shall be issued until compliance shall have been made with all conditions.
- E. Alternatives to the proposal. Alternatives to minimize adverse environmental impacts during construction and operation, both at the project site and in the surrounding region, shall be submitted as a part of the environmental impact statement.
- F. Licenses, permits and other approvals. A list of all licenses, permits and other approvals required by Borough, county or state laws and status of each.

§ 102-8. Review and approval.

In reviewing an environmental impact statement, the Planning Board shall take into consideration the effect of the applicant's proposal upon all aspects of the environment. The Planning Board shall submit the environmental impact statement for review and comment to the Environmental Commission, and to such

other governmental bodies and to such consultants as it may deem appropriate. The Planning Board shall approve an environmental impact statement only if it determines that the proposed development has been designed with adequate safeguards as needed to protect the environment.

Article III. Soil Moving

§ 102-9. Definitions.

As used in this article, the following terms shall have the meanings indicated below. Where a word is not otherwise defined herein, the definition set forth in Chapter 245, § 245-3 shall apply.

CUT AND FILL OPERATIONS

All soil moving activities that do not involve either removal or importation.

MAJOR SOIL MOVING PERMIT

A permit for the moving of 1,000 cubic yards or more of soil.

MINOR SOIL MOVING PERMIT

A permit for the moving of less than 1,000 cubic yards of soil.

PLANNING BOARD

For the purposes of this article, "Planning Board" shall also mean the Zoning Board of Adjustment for those cases that may come under Zoning Board of Adjustment review.

PREMISES

One or more contiguous parcels of land in single ownership.

SOIL

All unconsolidated mineral and organic material, of whatever origin, that overlies bedrock and can be readily excavated.

SOIL IMPORTATION

The transporting of soil onto any premises in the Borough from elsewhere.

SOIL REMOVAL

The transporting of any soil from any premises in the Borough for use elsewhere.

STRIPPING

Any activity which removes or significantly disturbs the vegetated surface cover of land, including clearing and grading operations and the like.

SUBSOIL

All soil beneath the top layer of soil, be it sand, gravel, clay, stone, rock, stone aggregate, dirt or a combination of one or more of the foregoing or otherwise.

§ 102-10. (Reserved)

§ 102-11. Permit required; exemptions.

No person shall disturb the soil by soil removal, soil importation or cut and fill operations on any premises in the Borough unless a permit is first secured. Exemptions may be made only in the following cases:

- A. Soil moving activities of less than 50 cubic yards provided that the change in elevation is no more than two feet at any point. One exemption under this category shall be allowed for one property in any twenty-four-month period.

- B. Excavation for foundations or swimming pools where the grade is no more than 15%.
- C. Those cases where a site plan or major subdivision application is under consideration by the Planning Board or Board of Adjustment.

§ 102-12. Application requirements.

- A. Where a permit for soil moving is required, the owner of the premises, lessee or a representative shall first file with the administrative officer an application requesting such permission, together with a map of the premises, in duplicate, showing existing and proposed finished grade contour lines. The map shall also show the present and proposed topography of the premises in relation to the location and elevation of all abutting streets and adjoining properties. If buildings are to be constructed, their location shall be shown and elevation sketches shall be provided. The source of fill material must be identified, including the name and address of the supplier.
- B. In the case of a major soil moving permit, plans shall be prepared by a New Jersey licensed professional engineer or other qualified professional. For a minor soil moving permit, the construction official may require such preparation if (s)he deems the plans as submitted to be inadequate.

§ 102-13. Permit application; review; fee.

- A. Applications shall be made on the appropriate forms, and shall be filed with the Planning Board Administrator. Upon receipt of the application and attachments, together with the fees specified in § 111-3F, the administrative officer shall deliver copies of each to the Construction Official and Borough Engineer for review and processing as herein prescribed.
- B. Minor soil moving permit. In cases involving a minor soil moving permit, the Borough Engineer shall review the application and, following its approval, the Construction Official shall issue the permit.
- C. Major soil moving permit. Cases involving a major soil moving permit shall require a public hearing before the Planning Board, in accordance with § 245-62 and shall require a performance bond, as detailed in § 102-16.

§ 102-14. Consideration guidelines.

In considering the application, the Planning Board or the construction official shall be guided by and shall take into consideration the following factors:

- A. Soil erosion by wind and water.
- B. Drainage. No sharp declivities or pits shall be formed.
- C. Water runoff. No increase in the quantity or velocity of stormwater emanating from the land, in accordance with Article V.
- D. Soil fertility.
- E. The landscaping plan. Provision shall be included for protection of the vegetation that is to be retained both on and off the site, with the understanding that disturbing or covering soil within the dripline of a tree may have a negative effect on the health of that tree.
- F. Lateral support slopes and grades of abutting streets and lands.
- G. Wellhead Protection Area guidelines.
- H. Adequacy of buffering of the surrounding properties.
- I. Cover. Fill shall be covered with clean arable soil or, in the case of a driveway, with stones or gravel.
- J. Land values and uses.

- K. Authority of applicant.
- L. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Borough.
- M. Additional consideration shall be given cases involving premises that, by virtue of their nature, location and other characteristics, are suitable for, and capable of, major subdivision under the appropriate ordinances and statutes. The Planning Board shall review such applications in light of this section, as well as sound planning considerations, zoning requirements, the Master Plan, any pending subdivision application and the nature of the surrounding terrain and proposed contours.

§ 102-15. Issuance of permit; time for completion of work; conditions.

- A. If, after considering the application and all maps, reports and other documents or evidence, the Planning Board or construction official determines that the proposed soil moving operation will not adversely affect the public health, safety or general welfare, a permit shall be granted to the applicant and shall include a reasonable time limit for completion of the operation.
- B. In granting permits under this section, the Planning Board or construction official shall have the power to condition the permit upon compliance by the applicant with such terms and conditions as may be deemed necessary or advisable to effect the provisions and intent of this section. Such conditions may include the requirement of as-built plans.

§ 102-16. Performance bond.

- A. Before a major soil moving permit shall be effective, the applicant shall file with the Borough Council a performance bond, conditioned upon full compliance with all of the terms and conditions of approval, including the provisions of this chapter. The amount of such bond shall be fixed by the Borough Council, upon recommendation of the Borough Engineer. The bond shall be in the form of cash or a surety bond in a form and with surety acceptable to the Borough Attorney.
- B. Where a surety bond is given, the Borough Council shall have the right to demand a cash bond equal to 10% of the total amount, it being understood that, in the event of default, the cash deposit shall be resorted to first by the Borough in pursuing its remedies.

§ 102-17. Care of land; responsibility of owner/lessee.

If permission for soil moving is granted, the owner and/or lessee shall bear responsibility for insuring that the operation is so conducted that:

- A. There shall be no sharp declivities, pits or depressions. The area shall be properly leveled off, cleared of debris and graded to conform to the contour lines and grades as approved by the Planning Board or construction official.
- B. There shall be no damage to or littering of roads or other Borough property or private property in the Borough.
- C. The top layer of arable soil to a depth of six inches shall not be taken away. This soil shall be set aside for retention on the premises and shall be respread, consistent with approved levels and contour lines, when the rest of the soil has been properly graded. Nothing herein shall preclude the removal of nonarable soil and replacement thereof with arable soil to a depth of no less than six inches.

§ 102-18. Other applicable regulations.

Nothing herein shall exempt the applicant from any applicable provisions of other local, state and federal law.

Article IV. Soil Erosion and Sedimentation Control

§ 102-19. Regulations.

- A. No application to the Planning Board for any of the following approvals shall be granted unless and until a soil erosion and sedimentation control plan has been submitted to and approved by the Planning Board:
 - (1) Preliminary approval of a major subdivision.
 - (2) Final approval of a major subdivision.
 - (3) Site plan approval.
- B. In situations where none of the above subdivision or site plan approvals is required, it shall be unlawful for any person to create or cause any land disturbance greater than 5,000 square feet unless and until a soil erosion and sedimentation control plan shall have been submitted to and approved by the Borough Engineer.

§ 102-20. Waiver.

The Planning Board may waive the requirement for submission and approval of a soil erosion and sediment control plan in connection with applications for approval set forth in Subsection A upon a finding that there is no apparent risk or danger of material, substantial, harmful, or otherwise detrimental soil erosion or sedimentation based upon review of the plans submitted.

§ 102-21. Scope and contents of plan.

- A. The soil erosion and sedimentation control plan shall comprise a map and written report (together with whatever other instruments, writings, drawings, plans or specifications are necessary or appropriate under the circumstances) which fully and adequately describe both temporary and permanent measures to be employed to control, minimize and protect against soil erosion and sedimentation from a proposed land disturbance, taking into account the particular nature and characteristics of the land, the surrounding area, the watercourses, the land disturbance and the planned development involved. The plan shall cover all stages and aspects of the proposed land disturbance and planned development from grading, stripping, excavation and other site preparation through and including both final grading and the installation of permanent improvements. It shall accordingly include a timing schedule or schedules indicating:
 - (1) The anticipated starting and completion dates of each step in the land disturbance and development sequence and the time of exposure of each land area prior to the completion of effective erosion and sedimentation control measures; and
 - (2) The sequence of installation of planned erosion and sedimentation control measures as related to the disturbance and development sequence referred to in Subsection **A(1)** above, including anticipated starting and completion dates of such installations.
- B. Soil erosion and sedimentation control measures shall, at a minimum, utilize and meet applicable standards and specifications promulgated under the New Jersey State Soil Erosion and Sediment Control Act. In addition, to the extent applicable in particular situations, the following measures or considerations shall be incorporated in the soil erosion and sedimentation control plan:
 - (1) The smallest practical area of land shall be exposed at any one time during development, and the duration of such exposure shall be kept to a practical minimum.
 - (2) Whenever feasible, natural vegetation and the natural ground surface shall be retained and protected.
 - (3) Temporary vegetative protection plant cover and/or mulching shall be used to protect critical erosion

areas during development.

- (4) Diversions and outlets, both temporary and permanent, shall be constructed and/or installed to accommodate the runoff caused by the changed soil and surface conditions during and after development.
- (5) Disturbed soil shall be stabilized as quickly as practicable.
- (6) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped and removed to the maximum extent feasible by the use of debris basins, sediment basins, desilting basins, silt traps or other acceptable methods.
- (7) Whenever feasible, development shall preserve salient natural features and existing grades, thereby keeping grading, stripping and excavation to a minimum.
- (8) Adequate provisions shall be made to minimize surface water from damaging slopes and embankments. Cut-off ditches or diversions may be utilized for this purpose.
- (9) Fill shall be placed and compacted so as to minimize sliding or erosion, and shall not encroach on watercourses.
- (10) Fill placed adjacent to a watercourse shall have suitable protection against erosion for all weather stream flow conditions and particularly during periods of flooding.
- (11) During grading operations, methods for dust control shall be exercised.
- (12) During grading, excavation and other construction activities, slopes and embankments shall be stabilized by mulching with straw sprayed with asphalt mixture; jute matting staked in position; a seeding of annual ryegrass; or other acceptable methods in accordance with the standards.
- (13) Permanent (final) vegetative protection, plant cover, lawn or ground cover, and mechanical erosion control devices and measures shall be installed or constructed, and completed, as soon as practically possible.
- (14) Permanent improvements, such as roads, catch basins, curbs and the like, shall be installed or constructed, and completed, as soon as practically possible.

§ 102-22. Implementation.

- A. In considering and approving a soil erosion and sedimentation control plan, the Planning Board:
 - (1) Shall provide for the posting of performance guaranties and maintenance bonds in the same manner as provided in §245-62.
 - (2) May refer the plan to the Soil Conservation District, and/or to any other qualified governmental agency or agencies, for review and may take no action on the plan until after a report has been received from the District or such other agency or agencies.
 - (3) May impose lawful conditions or requirements necessary or desirable to proper implementation of the plan and of the purpose and intent of this chapter.
- B. After a soil erosion and sedimentation control plan has been approved, it shall be unlawful for the applicant therefor, or any person performing services in implementing the plan, knowingly to deviate from, change, amend or modify the plan in any way, except in accordance with the provisions of Subsection C below.
- C. Minor changes, amendments or modifications to a soil erosion and sedimentation control plan required as a result of conditions in the field during construction may be approved by the Construction Official, or the Borough Engineer as permitted by § 102-24, who shall, in turn, notify the Planning Board thereof. Major changes, amendments or modifications to such a plan shall require the approval of the Planning Board.

§ 102-23. Maintenance.

Any person carrying out soil erosion and sedimentation control measures under this article, and all subsequent owners of the property upon which such measures have been carried out, shall adequately maintain all permanent control measures, devices and plantings in good order for a period of two years after completion of the work described in the approved plan implementation. Maintenance bonds therefore shall be posted in connection therewith as provided for in § 245-62

§ 102-24. Enforcement.

- A. No approval of occupancy of any building shall be granted unless all measures required under the soil erosion and sediment control plan have been either completed or substantially provided for in accordance with this chapter. Approval for occupancy may be granted notwithstanding that permanent (final) vegetative protection, plant cover, or lawn or ground cover has not been installed if such permanent protection and cover has not been, and cannot be, installed because of conditions of weather; and the installation thereof is enforced by appropriate provisions in the bond or other security and improvement agreements which shall provide for installation within such time limits as may be reasonable upon direction of the Construction Official, or the Borough Engineer as soon as the weather conditions shall permit.
- B. Inspection of projects to determine execution in accordance with the certified plan shall be carried out by the Borough Engineer and/or Construction Official.
- C. The Borough Engineer shall determine whether or not the provisions of the certified plan and sequence of construction are being followed by the applicant.
- D. The Borough Engineer shall inform the applicant in writing of observed deviation from the certified plan and request immediate compliance with the plan. Failure of the applicant to adequately correct deficiencies in the time frame set forth in the Borough Engineer's letter to the applicant shall result in the issuance of a violation notice. Failure of the applicant to correct the deficiencies in the violation notice may result in the issuance of a stop-construction order.
- E. The Borough Engineer may issue a stop-construction order if the applicant takes no action to comply with the provisions of the certified plan. The Borough Engineer may issue a stop- construction order if a person initiates land disturbance prior to securing plan certification.
- F. When a stop-construction order is issued, no further construction activity or any other work may take place on the project except for implementation of erosion controls as required by the Borough Engineer, until such time the project is in compliance with all provisions of the certified plan.
- G. Report of compliance.
 - (1) The Borough Engineer shall issue a written final report of compliance in accordance with this section, upon the determination that the project is in full and complete compliance with the requirements and provisions of the certified plan such that all permanent measures to control soil erosion and sedimentation are in effect for the entire project.
 - (2) The report of compliance (ROC) shall be issued when the Borough Engineer determines that a project or portion thereof is in full compliance with the certified plan and the Standards for Soil Erosion and Sediment Control in New Jersey (see N.J.A.C. 2:90-1.3), and that the permanent measures to control soil erosion and sedimentation are in effect for the area encompassed by the ROC.
 - (3) A report of compliance with conditions (CRC) shall be issued when the Borough Engineer determines that the project or portion thereof is not yet in full compliance with the certified plan but is in satisfactory compliance to the extent practicable and in accord with the sequence of development and requirements thereof, such that the issuance of a temporary and conditional

approval is appropriate with such conditions as may be imposed. Satisfactory compliance means temporary measures and appropriate permanent measures for soil erosion and sediment control have been implemented according to the standards including provisions for stabilization, site work and that no other site specific concerns exists.

- (4) Upon written request from the applicant, the Borough Engineer may issue a ROC or CRC on a lot-by-lot or section-by-section basis for a project when lots or sections are a part of the project.
- (5) The Borough Engineer may withhold a ROC or CRC for any project which has not secured discharge authorization of the stormwater General Permit NJG0088323 where a NJPDES permit is required for stormwater discharges associated with a construction activity pursuant to N.J.A.C. 7:14A-24.2.
- (6) All fees shall be paid to the Borough prior to issuance of the ROC or CRC.
- (7) A standard report of compliance form approved by the State Soil Conservation Committee shall be utilized by the Borough Engineer and shall allow for the Borough Engineer's issuance of a CRC or ROC. The Borough Engineer shall complete the standard report of compliance form in accordance with the requirements set forth in N.J.A.C. 2:90-1.14.
- (8) Copies of the ROC or CRC shall be distributed by the Borough Engineer to the applicant; the construction code official having construction code jurisdiction for the project, if applicable; and/or in the case where a construction permit is not required for a project (such as for mining and land clearing projects among others), the municipal official having jurisdiction over such project, if any. The Borough Engineer may also issue a copy of a ROC or CRC, to such other persons or entities, as the Borough Engineer deems necessary or appropriate in his discretion. This includes, without limitation, any local district, county, state and federal agency, or instrumentality thereof, exercising any jurisdiction over the project.
- (9) No certificate of occupancy (CO) for a building or structure on a project, or any portion thereof, shall be issued unless there has been a ROC issued by the Borough Engineer indicating compliance with the provisions of the certified plan for measures to control soil erosion and sedimentation.
- (10) No temporary certificate of occupancy (TCO) for a building or structure on a project, or any portion thereof, shall be issued by a municipality or any other public agency unless a CRC or ROC is issued by the Borough Engineer.
- (11) During the non-growing season, as defined in the Standards for Soil Erosion and Sediment Control in New Jersey (the Standards), or where seasonal or weather related constraints exist, or where the applicant's scheduling has prevented or delayed final stabilization (for example, completed site work during winter), the Borough Engineer may issue a CRC or ROC in accordance N.J.A.C. 2:90-1.14(k)1-3.
- (12) Where the applicant has completed temporary stabilization and provided temporary erosion control measures in compliance with the certified soil erosion and sediment control plan, the applicant may request a CRC or ROC from the Borough Engineer. The Borough Engineer may also require the applicant to provide a performance deposit and enter into a performance agreement with the Borough Engineer to assure completion of final stabilization. In such instance, the Borough Engineer, at his option, may issue the CRC or ROC subject to the requirement that final stabilization be completed by the date indicated on the performance agreement such as, by the end of the next growing season, as defined in the Standards or such reasonable time period established by the Borough Engineer. Upon receipt of the signed performance agreement and cash performance deposit, the Borough shall deposit the performance deposit into an interest-bearing escrow account with interest to accrue to the benefit of the applicant. The applicant shall sign and deliver to the Borough any and all forms required by the Borough or its bank to open and maintain such interest-bearing escrow account. Upon completion of final stabilization by the applicant, the Borough shall return such performance deposit with interest to the applicant minus the administrative costs assessed by the Borough pursuant to the Borough Fee Ordinance. Upon the failure of the applicant

to timely or satisfactorily implement the permanent stabilization in accordance with performance agreement and this section, the Borough Engineer shall provide written notification of such failure to the applicant together with a demand that such failure be fully cured within 10 calendar days of the date of such notification to the Borough Engineer's satisfaction or a later date established by the Borough Engineer. If after such ten-calendar-day period, or agreed-to time frame, such failure is not fully and properly cured to the Borough Engineer's satisfaction, the Borough may utilize the applicant's performance deposit in order to contract for all work necessary or required to cure such failure and to complete all permanent measures in accordance with the performance agreement.

§ 102-25. Violations and penalties.

Any person who violates any of the provisions of this chapter and standards promulgated pursuant to this chapter or fails to comply with the provisions of a certified plan shall be liable for a penalty of not less than \$25 nor more than \$3,000. Each day during which it continues shall constitute an additional, separate and distinct offense.

Article V. Surface Water Management for Non-Major Applications

§ 102-26. Specific purposes.

This Article shall apply to projects that do not meet the definition for "Major Development" in Chapter 202, Stormwater Management. This article shall be deemed essential and necessary to protect the public health, safety and welfare of the citizens of the Borough and the surrounding communities by accomplishing the following purposes:

- A. Water management.
 - (1) Maintain infiltration of surface water for groundwater recharge.
 - (2) Improve quality of nonpoint runoff by water retention measures.
 - (3) Maintain the adequacy of natural stream channels and prevent accelerated bank erosion by controlling the rate, velocity, volume and location of runoff discharge.
- B. Flood control.
 - (1) Preserve the adequacy of culverts and bridges by suppressing artificially induced flood peaks.
 - (2) Reduce public expenditures for replacement or repair of public facilities that would be made necessary by artificially induced flood peaks.
 - (3) Prevent damage to life and property from flooding resulting from excessive rates and velocities of runoff.
- C. Ecology.
 - (1) Prevent degradation of stream biota, water and plant life, caused by excessive flushing and sedimentation.
 - (2) Prevent degradation of stream water quality due to impairment of the stream's biological function.
- D. Environmental protection. Enhance and protect the character of the lakes and streams of the Borough, and control discharges to downstream communities.

§ 102-27. Procedure.

- A. Regulation. There shall be no land area developed or altered which shall increase the quantity or velocity of stormwater emanating from the land area, except in accordance with an approved surface water management plan as provided by this article.

- B. Applicability. This article and the requirements stated herein shall apply to any application which shall by any means increase the quantity of surface water runoff emanating from the land area except the development or alteration of any area by construction resulting in aggregate improved lot coverage of less than 5% of the area or 2,000 square feet, whichever is more restrictive.
- C. Application for approval.
- (1) In cases where the development or alteration of land involves the construction of a building or other facility requiring site plan approval or a construction permit, the Borough Engineer shall determine whether the development involves construction resulting in aggregate improved lot coverage equal to 5% or more of the area or 2,000 square feet, as aforesaid.
 - (a) If the extent of the development or alteration to be undertaken by the applicant is found to be exempt, the Borough Engineer may direct the construction official may proceed with the next step toward the issuance of a construction permit.
 - (b) The Borough Engineer may waive the surface water management plan requirement if, after reviewing the application for any single-family house, he determines that surface water runoff hazards are not significant.
 - (c) If the extent of the development or alteration to be undertaken requires approval with regard to the provisions of this article, or if the application would otherwise require approval by the Planning Board, the applicant shall proceed to submit a surface water management plan and other data as outlined herein to the Borough Engineer.
- D. Data required. For engineering review by the Borough Engineer, the surface water management plan shall contain:
- (1) The inventory of the site showing all natural and man-made drainage features such as berms, culverts, terraces, grass waterways, favorable hydrologic soils, poorly drained soils, swamps, swales, watercourses, woodlands, stream encroachment lines, floodplains.
 - (2) The size of the watershed and location of the site within the watershed.
 - (3) Computations of the total surface water runoff before, during and after the disturbance of land and/or construction of impervious surfaces.
 - (4) A schedule of the sequence of installation of the surface water management plan, relating to the starting and completion dates of the project.
- E. General standards. In the preparation of a surface water management plan, the following general standards shall be adhered to:
- (1) All facilities shall be designed in accordance with acceptable engineering practice and standards and are subject to the approval of the Borough Engineer.
 - (2) The peak rate and velocity of runoff from the site following completion of the planned development shall not exceed that which:
 - (a) Prevailed under previous cover (zero increase runoff).
 - (b) Would prevail under total coverage in a meadow of good hydrologic condition or permanent meadow, as defined by Soil Conservation Service Standards, whichever produces the least amount of runoff.
 - (3) All facilities shall be designed to accommodate a volume of runoff produced by 7 1/2 inches of rainfall over a twenty-four-hour period or three inches of rainfall over a one-hour period, whichever results in a greater storage requirement.
 - (4) Volume of runoff from the site shall be controlled through on-site stormwater detention and/or ground absorption systems.
 - (5) Appropriate use shall be made of presently existing surface water runoff control devices,

mechanisms or areas such as existing berms, terraces, grass waterways, favorable hydrologic soils, swamps, swales, watercourses, woodlands, floodplains, in accordance with their functional capability.

- (6) Evaluation shall be made of the nature of the watershed of which the site is a part.
- (7) The plan shall coordinate with the soil erosion and sedimentation control plan and with the environmental impact statement plans for the site in question.
- (8) To the greatest possible extent, the plan shall avoid the concentration of flow and shall provide for dissipation of velocities at all concentrated discharge points.
- (9) All structures and land treatment practices shall conform to the latest edition of Standards and Specifications for Soil Erosion and Sediment Control in New Jersey, adopted by the Morris County Soil Conservation District. All outfalls shall be designed in a manner to retard velocities at the outfall and provide stream channel protection. Drainageways and watercourses which normally carry or receive surface water runoff shall not be overloaded with increased runoff, sediment or other pollution resulting from disturbance of soil and vegetation or incident to development, construction or other activity.
- (10) The plan shall identify, and include a schedule for the establishment of, temporary and permanent stormwater management measures to include seeding and established vegetative cover. All water-carrying structures and/or retention areas shall be completed and stabilized prior to diversions of water to them.
- (11) Due consideration shall be given to the relationship of the subject property to the natural or established drainage pattern of the watershed of which it is a part. Surface water runoff controls shall be designed to assure that the land in question uses no more than its proportionate watershed share of the natural stream and culvert capacity.
- (12) Innovative surface water runoff control and recharge devices may be proposed, such as rooftop storage, drywells, cisterns, roof drain infiltration trenches, provided they are accompanied by detailed engineering plans and performance capabilities.
- (13) The curbing requirement may be relaxed by the Borough Engineer in the interest of acceptable drainage accommodation that will relieve concentration of flow or discharge to a stormwater drain system.
- (14) Areas to be left undisturbed shall be physically marked with survey stakes or protected with temporary snow fence prior to any land disturbance.

§ 102-28. Review and approval.

- A. Surface water management plans shall be reviewed by the Borough Engineer .
- B. The Borough Engineer shall make a determination on such plans within 45 days of receipt of a complete application unless the Borough Engineer and the applicant mutually agree upon an extension of the review time.
- C. The Borough Engineer, upon completing its review of the application and data, shall either approve, tentatively disapprove or disapprove the application. Upon approval, the construction official may proceed with the next step toward the issuance of a construction permit. If tentatively disapproved, the application and data shall be returned to the applicant for resubmittal.
- D. If the Borough Engineer determines that the proposed land disturbance or construction will generate no surface water runoff that will not be managed in accordance with the provisions of this article, and will not be detrimental to the public health, safety and general welfare in light of the paramount interest in the prevention of conditions which may result in surface water runoff damage, the plan shall be approved.

§ 102-29. Maintenance.

Any person carrying out surface water management measures under this article, and all subsequent owners of the property upon which such measures have been carried out, shall ensure the correct functioning of such measures. The Borough Engineer may require that maintenance bonds be posted as set forth in § 245-62.

Article VI. Wellhead Protection Area Regulations

§ 102-30. Findings.

The governing body of Mountain Lakes finds that:

- A. The groundwater underlying this municipality is a major source of existing and future water supplies, including drinking water.
- B. The groundwater aquifers are integrally connected with, are recharged by, and flow into the surface waters, lakes and streams, which also constitute a major source of water for drinking, commercial and industrial needs.
- C. Accidental spills and discharges of toxic and hazardous materials may threaten the quality of these groundwater supplies and related water sources.
- D. Contaminated water from any source is a detriment to the health, welfare and comfort of the residents of this municipality, and other users of these water resources.
- E. Spills or discharges of hazardous substances or hazardous wastes may contaminate or pollute water. As a preventive measure, the proximity of such materials to sources of water supplies, such as public community wells, should be restricted so that there will be sufficient time to find and clean up such spills or discharges before water supplies become contaminated.

§ 102-31. Purpose.

The purpose of this article is to protect the public health, safety and welfare through the protection of our wellheads underlying the municipality to ensure a supply of safe and healthful drinking water for the present and future generations of local residents, employees and the general public in this municipality, as well as users of these water supplies outside this municipality. Areas of land surrounding each public community well, known as "Wellhead Protection Areas" (WPAs), from which contaminants may move through the ground to be withdrawn in water taken from the well, have been delineated. Through regulation of land use, physical facilities and other activities within these areas, the potential for groundwater contamination can be reduced. The purpose of the regulations contained in this article is to prevent the migration of potential pollutants from areas within a WPA into groundwater that is withdrawn from a public community well.

§ 102-32. Statutory authority.

The Borough of Mountain Lakes is empowered to regulate these activities under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use to secure a safe and adequate drinking water supply for its residents. With the authority to implement the Water Resource Ordinance, Mountain Lakes Borough is also obligated to insure that its provisions are carried out in a manner which is consistent with N.J.A.C. 7:14B. The Health Department of this municipality has autonomous power granted by the State Legislature to develop this article to protect public health, safety and welfare, as set forth in the New Jersey Local Boards of Health Law, N.J.S.A. 26:3-1 et seq., and the New Jersey County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.

§ 102-32.1. Definitions.

As used in this article, the following terms shall have the meanings indicated below. Where a word is not otherwise defined herein, the definition set forth in Chapter **245**, § **245-3** shall apply.

ADMINISTRATIVE AUTHORITY

The Planning Board or Board of Adjustment and the Health Department, acting jointly and in consultation, with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

APPLICANT

Person applying to the Health Department, Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this article that would be located within a regulated Wellhead Protection Area.

AQUIFER

A formation, group of formations, or part of a formation that contains sufficient saturated permeable rock, sand, or gravel which is capable of storing and transmitting usable quantities of water to wells and springs.

BEST MANAGEMENT PRACTICES (BMP)

Performance or design standards established to minimize the risk of contaminating groundwater or surface waters while managing the use, manufacture, handling or storage of hazardous substances or hazardous wastes as set out in § **102-32.4**.

CONTAMINATION

The presence of any harmful or deleterious substances in the water supply.

DEVELOPMENT

The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

DISCHARGE

Any intentional or unintentional action or omission, unless pursuant to and in compliance with the conditions of a valid and effective federal or state permit, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or lands of the state or into waters outside the jurisdiction of the state when damage may result to the lands, waters or natural resources within the jurisdiction of the state.

DRY WELL

A subsurface storage facility that receives and temporarily stores roof runoff. A dry well may be either a structural chamber and/or an excavated pit filled with aggregate in accordance with the requirements of the Borough Engineer.

GROUNDWATER

Water contained in interconnected pores of a saturated zone in the ground.

HAZARDOUS SUBSTANCE

Any substance designated under 40 CFR 116 pursuant to Section 311 of the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act, Public Law 92-500; 33 U.S.C. § 1251 et seq.), the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or Section 4 of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-4). Substances listed include petroleum, petroleum products, pesticides, solvents and other substances.

HAZARDOUS WASTE

Any solid waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E et seq., N.J.A.C. 7:26-8, or 40 CFR Part 261.

MAXIMUM CONTAMINANT LEVEL

The maximum permissible level of a contaminant in water which is delivered to any user of a public community water system.

NAICS

North American Industrial Classification System pursuant to the North American Free Trade Agreement of 1993.

NJDEP

New Jersey Department of Environmental Protection.

PERSON

Any individual, public or private corporation, company, partnership, firm, association, owner or operator, political subdivision of this state, and any state, federal or interstate agency or an agent or employee thereof.

POTENTIAL POLLUTANT SOURCE (PPS)

An activity or land use which may be a source of a pollutant that has the potential to move into groundwater withdrawn from a well. For the purposes of this article, potential pollutant sources are defined in § 102-32.4.

PPS

Potential pollutant source.

PUBLIC COMMUNITY WELL

Groundwater well serving the public water system.

SOLE SOURCE AQUIFER

Any drinking water aquifer upon which more than 50% of a population group depends and for which there is no practicable or affordable alternate water supply, as certified by the United States Environmental Protection Agency.

TIME OF TRAVEL (TOT)

The average time that a volume of water will take to travel in the saturated zone from a given point to a pumping well.

TIER 1 WELLHEAD PROTECTION AREA

That area of land within a WPA from which groundwater may enter the well within two years. (See maps referenced under § 102-32.2A.)

TIER 2 WELLHEAD PROTECTION AREA

That area of land within a WPA from which groundwater may enter the well within five years. (See maps referenced under § 102-32.2A.)

TIER 3 WELLHEAD PROTECTION AREA

That area of land within a WPA from which groundwater may enter the well within 12 years. (See maps referenced under § 102-32.2A.)

WELLHEAD

The well borehole and appurtenant equipment.

WELLHEAD PROTECTION AREA (WPA)

An area described in plan view around a well, from which groundwater flows to the well and groundwater pollution, if it occurs, may pose a significant threat to the quality of water withdrawn from the well.

WPA

Wellhead Protection Area.

§ 102-32.2. Establishment of Wellhead Protection Areas and maps.

- A. Wellhead Protection Area maps.
 - (1) The delineations of Wellhead Protection Areas are shown on a map entitled "Wellhead Protection Area - Borough of Mountain Lakes" dated February 3, 2014, which is adopted herein by reference. A copy of this map is available in the office of the Borough Clerk.
 - (2) Wellhead Protection Areas, as shown on the maps described in Subsection **A(1)**, shall be considered to be superimposed over any other established zoning district. Land in a Wellhead Protection Area may be used for any purpose permitted in the underlying district, subject to the additional restriction presented herein.
- B. Assignment of restriction within Wellhead Protection Areas. Properties located wholly or partially within a Wellhead Protection Area shall be governed by the restrictions applicable to the Wellhead Protection Area.

§ 102-32.3. Regulation of Wellhead Protection Areas for public community wells.

- A. The Administrative Authority for administering the provisions of this article shall be the Planning Board or Board of Adjustment, Zoning Officer and the Health Department of Mountain Lakes acting jointly and in consultation.
- B. Any applicant for a permit requesting a change in land use or activity, which is subject to review under the provisions of the Municipal Land Use Law and other pertinent regulations of Mountain Lakes and which is located within a delineated WPA, as defined in § **102-32.2**, that involves a potential pollutant source (PPS), as defined in § **102-32.4**, shall comply with the requirements of this article.
- C. Any applicant for a permit requesting a change in land use or activity, which is subject to the requirements of this article, shall file an operations and contingency plan, as required by § **102- 32.6**, with the administrative authority. No permit that allows a change in land use or activity, which is subject to the requirements of this article, shall be granted unless an operations and contingency plan for the proposed change has been approved by the administrative authority. Any plan approved by the administrative authority shall be kept on file in the office of the Health Department of Mountain Lakes, and shall be available to the public for inspection.
- D. Any change in on-site land use or activity that adds a major or minor potential pollutant source (PPS), as defined in § **102-32.4**, shall be prohibited within a Tier 1 WPA.
- E. Any change in on-site land use or activity that adds a major PPS, as defined in § **102-32.4**, shall be prohibited within a Tier 2 WPA.
- F. Any change in on-site land use or activity that involves any PPS, as defined in § **102-32.4**, within any WPA, that is not prohibited pursuant to Subsection **D** or **E** of this § **102-32.3**, shall comply with the best management practice standards, as defined in § **102-32.5**.
- G. Exemptions:
 - (1) Retail sales establishments that store and handle hazardous materials for resale in their original containers. This exemption shall not preclude the submission of a best management practices and

the operations and contingency plan in accordance with §§ **102-32.5** and **102-32.6**.

- (2) Police, fire and emergency medical service facilities (subject to the preparation of a best management practices and operations and contingency plan in accordance with §§ **102-32.5** and **102-32.6**).
 - (3) Municipal, county and state government facilities (subject to the preparation of a best management practices and operations and contingency plan in accordance with §§ **102-32.5** and **102-32.6**).
 - (4) The use of any hazardous material solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
 - (5) The transportation of a hazardous material through the WPA, provided that the transporting vehicle is in transit and meets all state and federal requirements for the transportation of such hazardous material.
 - (6) Preexisting facilities, but not expansion of same, that would qualify as a continuance of an existing nonconforming use.
 - (7) A NJDEP-approved discharge to groundwater permit (DGW) for remediation of groundwater clean up in any Tier WPA.
- H. This article is supplementary to other laws and ordinances in this municipality. Where this article or any portion thereof imposes a greater restriction than is imposed by other regulations, the provisions of this article shall supersede. These rules and regulations shall in no way affect the limitations or requirements applicable in the underlying municipal land use and zoning districts.
- I. The use limitations noted herein shall be considered as limitations stipulated in the permitted list of uses in each zone. The activities regulated herein shall be considered limitations accessory to permitted uses in each zone.

§ 102-32.4. Potential pollutant sources.

The following are major and minor potential pollutant sources (PPS) subject to the requirements of this article. This listing is consistent with the New Jersey Safe Drinking Water Act, N.J.A.C. 7:10-11.7 through 12.12.

A. Major PPSs include:

- (1) Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills.
- (2) Collection and transfer facilities for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials.
- (3) Any use or activity requiring the underground storage of a hazardous substance or waste greater than an aggregate total of 50 gallons and regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.).
- (4) Aboveground storage facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
- (5) Any industrial treatment facility lagoon.
- (6) Automotive service center (repair and maintenance).
- (7) Landfill.
- (8) Dry-cleaning facility (except retail distribution only of dropoff and pickup of dry cleaning only).
- (9) Road salt storage facility.
- (10) Cemetery or funeral homes or such facilities with embalming facilities.
- (11) Truck or bus maintenance yard.

- (12) Site for storage and maintenance of heavy construction equipment and materials.
- (13) Site for storage and maintenance of equipment and materials for landscaping.
- (14) Livestock operation.
- (15) Quarrying and/or mining facility.
- (16) Asphalt and/or concrete manufacturing facility.
- (17) Junkyard/auto recycling and scrap metal facility.
- (18) Farm or residential underground storage of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.
- (19) Underground heating oil storage tank for on-site consumption with a capacity greater than 2,000 gallons.
- (20) Transmission pipelines, including hazardous substance transmission pipelines, as defined by Chapter **245**.

B. Minor PPSs include:

- (1) Any use or activity requiring the underground storage of hazardous substance or waste of 50 gallons or less.
- (2) Underground heating oil storage tank for on-site consumption with a capacity of 2,000 gallons or less.
- (3) Sewage treatment facility.
- (4) Sanitary sewer system, including sewer line, manhole, or pump station within 100 feet of a regulated well. (See conditions in Subsection **C**.)
- (5) Industrial waste line. (See conditions in Subsection **C**.)
- (6) Septic leaching field.
- (7) Facility requiring a groundwater discharge permit issued by the NJDEP pursuant to
- (8) N.J.S.A. 7:10-14A et seq.
- (9) Stormwater line within 100 feet of a regulated well. (See conditions in Subsection **C**.)
- (10) Waste oil collection, storage and recycling facility.
- (11) Agricultural chemical bulk storage and mixing or loading facility, including crop dusting facilities.
- (12) Aboveground storage of hazardous substance or waste in quantities of 2,000 gallons or less. (See conditions in Subsection **C**.)
- (13) Any facility with a NAICS Code number included under the New Jersey Safe Drinking Water Act Regulations at N.J.A.C. 7:10A-1.14, Table II(N)A, with a toxicity number of II or greater.

C. Conditions:

- (1) Sanitary sewer lines, industrial waste lines and stormwater lines may be located no closer than 100 feet to a regulated well, and only if they are constructed of watertight construction (that is steel, reinforced concrete, PVC or other suitable material as approved by the Borough utility authority).
- (2) Manhole and/or connections to a sanitary sewer system are restricted within 100 feet of a regulated well.
- (3) Dry wells dedicated to roof runoff and serving residential properties or commercial or industrial properties with NAICS codes not listed in Appendix A may be located no closer than 100 feet to a regulated well.

- (4) Aboveground heating oil storage tanks, 2,000 gallons or less, shall be permitted in any tier subject to approval by the approving authority of containment provisions in accordance with § **102-32.5** herein and shall be located no closer than 100 feet to a regulated well. The new aboveground tank and containment measures as specified herein shall be exempt from impervious coverage requirements for the zone. The aboveground containment measures shall be no larger than required to contain a spill of the contents of an aboveground tank. The aboveground tank is permitted within any side or rear yard but shall conform to the minimum setback requirement for accessory structures. The aboveground tank shall also include fencing or landscaping sufficient to provide a screen of the proposed aboveground tank and containment apparatus from adjacent properties.
- (5) An aboveground fuel storage tank for emergency electrical generators with maximum fuel storage capacity of 2,000 gallons shall be permitted in any tier subject to approval by the approving authority of containment provisions in accordance with § **102-32.5** herein and shall be located no closer than 100 feet to a regulated well.

§ 102-32.5. Best management practice performance standards.

Any applicant proposing any change in land use or activity that involves any PPS, as defined in § **102-32.4**, that would be located either wholly or partially within any WPA shall comply with and operate in a manner consistent with the following best management practices, and Mountain Lakes Borough is also obligated to insure that its provisions are not carried out in a manner which is inconsistent with N.J.A.C. 7:14B:

- A. All portions or areas of a facility in which hazardous substances or hazardous wastes are stored, processed, manufactured or transferred outdoors shall be designed so that the discharges of hazardous substances will be prevented from overflowing, draining, or leaching into the groundwater or surface waters.
- B. Outdoor storage, dispensing, loading, manufacturing or processing areas of hazardous substances or hazardous wastes must be protected from precipitation, stormwater flows or flooding.
- C. Secondary containment structures.
 - (1) Wherever hazardous substances are stored, processed, manufactured or transferred outdoors, the design features shall include secondary containment and/or diversionary structures which may include but not be limited to:
 - (a) Containers, dikes, berms or retaining walls sufficiently impermeable to contain spilled hazardous substances, for the duration of a spill event.
 - (b) Curbing.
 - (c) Gutter, culverts and other drainage systems.
 - (d) Weirs, booms and other barriers.
 - (e) Lined diversion ponds, lined lagoons and lined retention basins, holding tanks, sumps, slop tanks and other collecting systems.
 - (f) Drip pans.
 - (2) All secondary containment and diversionary structures for underground storage tanks shall be consistent with N.J.A.C. 7:14B.
- D. Secondary containment and diversionary systems, structure or equipment must meet the following standards:
 - (1) The system must block all routes by which spilled hazardous substances could be expected to flow, migrate, or escape into the groundwater or surface waters.
 - (2) The system must have sufficient capacity to contain or divert the largest probable single discharge that could occur within the containment area, plus an additional capacity to compensate for any

anticipated normal accumulation of rainwater.

- (3) In order to prevent the discharge of hazardous substances into groundwater, all components of the system shall be made of or lined with impermeable materials sufficient to contain the substance for the duration of a spill event. Such material or liner must be maintained in an impermeable condition.
 - (4) No manufacturing area, processing area, transfer area, dike storage area, or other storage area, or secondary containment/diversion system appurtenant thereto shall drain into a watercourse, or into a ditch, sewer, pipe or storm drain that leads directly or indirectly into a surface or subsurface disposal area, unless provision has been made to intercept and treat any spilled hazardous substances in an NJDEP-approved industrial wastewater treatment or pretreatment facility, or other NJDEP-approved facility. Exceptions to this provision shall be for retail gasoline, diesel fuel and residential home heating oil dispensing wherein the procedures are in conformance with NJDEP standards and contain stormwater runoff controls in conformance with NJDEP requirements.
 - (5) Catchment basins, lagoons and other containment areas that may contain hazardous substances should not be located in a manner that would subject them to flooding by natural waterways.
- E. Stormwater shall be managed so as to prevent contamination of groundwater, and so as to be in accordance with applicable laws and regulations of the State of New Jersey, and of Mountain Lakes.

§ 102-32.6. Operations and contingency plan.

- A. Any applicant proposing any change in land use or activity that involves any PPS, as defined in § 102-32.4, that would be located either wholly or partially within any WPA shall submit an operations and contingency plan to the administrative authority. This operations and contingency plan shall inform the administrative authority about the following aspects of the proposal:
- (1) Types of PPS proposed for the site;
 - (2) Types and quantities of hazardous substances or hazardous wastes that may be used or stored on site;
 - (3) Means to be employed to contain or restrict the spillage or migration of hazardous substances or hazardous wastes from the site into groundwater;
 - (4) Means to be used to contain or remediate accidental spillage of such materials;
 - (5) Means to notify the administrative authority about any accidental spillage of such materials;
 - (6) Demonstration that the proposed use and/or activity would employ, to the maximum extent possible, best management practices as set forth in § 102-32.5, to protect groundwater quality in the WPA and minimize the risk of potential groundwater contamination.
- B. The administrative authority shall review and shall approve or reject any operations and contingency plan prior to approving or denying the application for a land use change or activity.
- C. Any operations and contingency plan submitted shall be available for public review and comment.

§ 102-32.7. Enforcement.

A prompt investigation shall be made by the appropriate personnel of the Health Department of Mountain Lakes, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this article is discovered, a civil action in the Special Civil Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this article shall be construed to preclude a municipality's right, pursuant to N.J.S.A. 26:3A-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this article shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued

pursuant to this article. Each day a violation continues shall be considered a separate offense.

Article VII. Preservation and Protection of Trees

§ 102-33. Purpose.

The Borough Council of the Borough of Mountain Lakes finds that the preservation, maintenance, protection and planting of trees aids in the stabilization of soil by the prevention of erosion and sedimentation; reduces storm water runoff and the potential damage it may create; aids in the removal of pollutants from the air and assists in the generation of oxygen; provides a buffer and screen against noise and pollution; provides protection against severe weather; mitigates the urban heat island effect; aids in the control of drainage and restoration of denuded soil subsequent to construction or grading; provides a haven for birds and other wildlife and otherwise enhances the environment; protects and increases property values; preserves and enhances the Borough's physical and aesthetic appearance; and generally protects the public health and safety as well as the general welfare.

§ 102-34. Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" mean the requirement is always mandatory and not merely directory.

APPLICANT

Any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

DIAMETER AT BREAST HEIGHT (DBH)

The diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½- foot height, the DBH shall be measured at the highest point before any division.

HAZARD TREE

A tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

- a. Has an infectious disease or insect infestation;
- b. Is dead or dying;
- c. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
- d. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.);
- e. Is determined to be a threat to public health, safety, and/or welfare by a licensed Landscape Architect, certified arborist, Licensed Tree Expert (LTE) or Licensed Tree Care Operator (LTCO).

NAMED PARKS OR TRAILS

Lyman Wilson Memorial Park; Linear Park; Birchwood Beach area and loop trail; Island Beach area; Midvale boat launching area; Haswell and Taft Fields; Memorial Park; Briarcliff Park; Frank B. Kaufman Memorial Park; Wildwood Park; and The Esplanade. Trails are path between Briarcliff and High School, path over Crystal Lake Dam, Wilcox path to fields, Mountain Lake Dam access, Oakland Road to YMCA, Romaine Road Basketball Court, and easement between Pickwick and Craven Roads.

PERSON

Any individual, resident, corporation, utility, company, partnership, firm, or association.

PLANTING STRIP

The area within the public right-of-way between the abutting property line and the curb or edge of pavement, exclusive of any sidewalk.

PROTECTED TREE

Any tree six or more inches in diameter measured at a point 4 1/2 feet above the ground whose trunk is wholly in the setback area of the affected property. If a tree has multiple trunks, then each trunk's diameter shall be measured and added together to determine the size of the tree.

RESIDENT

An individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

STREET TREE

A tree planted within the public right-of-way. This also includes trees planted within shade tree easements and named public parks or trails. The removal of street trees is governed by the regulations of the Shade Tree Commission and the provisions set forth in § 102-35.

TREE

A woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

TREE CALIPER

The diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

TREE REMOVAL

To cut down or otherwise kill or to cause irreparable damage and/or death of a tree.

§ 102-35. Street trees and shrubs in rights-of-way.

A. Regulations.

- (1) Approval for planting or removing street trees or shrubs. No person shall plant, prune or remove any tree or shrub upon any Borough street, right-of-way, highway, public place or park without written permission from the Shade Tree Commission. Except as required by Subsection **A(2)** herein, this provision shall not be construed to require a street tree management plan to plant or remove a tree or shrub upon any Borough street, right-of-way, highway, public place or park.
- (2) Street tree management plan required. The Construction Official shall not issue a construction permit for erecting or constructing a building or addition or alteration thereof or improvements upon a property, a road opening permit, or a soil moving permit until a street tree management plan has been approved by the Shade Tree Commission and implemented in accordance with the regulations and provisions of § 102-35. Throughout a period of any construction, alteration or repair to any building or structure, or work on a site which is subject to an approved street tree management plan, the owner, tenant, person, firm or corporation causing said construction, improvement or work shall in all respects comply with an approved street tree management plan. The Planning Board or Zoning Board of Adjustment shall require as part of an application for development a street tree management plan approved by the Shade Tree Commission.
- (3) Other restrictions. No person shall:
 - (a) Cut, break, injure or remove a tree or shrub upon any Borough street, right-of-way, highway,

public place or park. This provision shall not apply to the actions of the Borough or a duly franchised public utility in the case of an emergency.

- (b) Place rope, wire, sign, poster or other fixture on a tree or shrub upon any Borough street, right-of-way, highway, public place or park or injure, misuse or remove any device placed to protect a tree or shrub upon any Borough street, right-of-way, highway, public place or park. This provision shall not apply to the actions of the Borough or a duly franchised public utility in the case of an emergency.
- (c) Fasten or attach an animal to or cause or allow an animal to injure a tree or shrub upon a Borough street, right-of-way, highway, public place or park.
- (d) Place or store, or cause to be placed or stored, any earth, stone, cement, sidewalk, or other substance, that impedes the free access of water and air to the roots of a tree or shrub upon any Borough street, right-of-way, highway, public place or park.
- (e) Pour salt water or other chemical, build fires or station any incinerator, tar kettle, road roller or other engine on or near a tree or shrub upon any Borough street, right-of-way, highway, public place or park in any such manner that the vapor or fumes therefrom may injure the same.

B. Street tree management plan.

- (1) Application. Any owner, person, firm or corporation who shall seek approval of an application for development by the Planning Board or Zoning Board of Adjustment; apply for a construction permit to erect or construct or cause to be erected or constructed a building or addition thereto or alteration thereof or install or cause to be installed improvements upon any property; seek a road opening permit; or seek a soil moving permit shall as a condition thereof apply for and receive approval for and comply with a street tree management plan on such forms and provide such information as may be reasonably required to satisfy the intent and purpose hereof by the Shade Tree Commission in accordance with the following:
 - (a) Identify, by street, block and lot number, the site and adjacent Borough streets, rights-of-ways, highways, public places and parks.
 - (b) Provide the name, address and telephone number of the owner or duly authorized agent of said owner, where applicable.
 - (c) Identify and place on a site plan or survey the location of any existing and/or proposed tree or shrub on adjacent Borough streets, rights-of-ways, highways, public places and parks.
 - (d) Mark any existing tree or shrub and/or the location of a proposed street tree or shrub, by visible, weatherproof and reasonably tamperproof means such as colored plastic tape. Existing trees or shrubs shall not to be sprayed with paint or chemicals or otherwise permanently marked, damaged or defaced.
 - (e) Identify and mark a tree protection zone around trees and shrubs upon Borough streets, rights-of-ways, highways, public places and parks adjacent to the site to a minimum of one foot from the tree trunk in all directions where feasible equal to one- inch diameter of tree trunk (for example, 10 feet from a tree 10 inches in diameter) and one foot beyond the dripline of a shrub. The diameter of the tree must be determined as follows: measure the circumference of the tree 4.5 feet above the ground, then divide that number by 3.14. This is the diameter of the tree.
 - (f) Construct and maintain barricades made of snow fencing, or comparable fence material approved by the Shade Tree Commission, to a height of no less than four feet around the perimeter of the tree protection zone, as identified above, until all work is completed and the condition of trees and shrubs within the tree protection zone is approved by the Shade Tree Commission.
 - (g) Place signs on barricade denoting a tree protection zone.
 - (h) Place all equipment, supplies, stockpiled earth and stones, ditches, and underground utility

lines outside the tree protection zone. If an underground line must go within a tree protection zone, it is to be installed by a method approved by the Shade Tree Commission that minimizes to the extent feasible cutting of or damage to roots.

- (i) At the discretion of the Shade Tree Commission, fertilize protected trees and shrubs which show evidence of stress from construction activity to increase vigor and aid in overcoming stress.
 - (j) Designate specific corridors for site access, where the driveways or parking areas or walks will be located, and provide protection of root zones where necessary.
 - (k) Where a change of slope may cause harm to any existing tree or shrub upon a Borough street, right-of-way, highway, public place or park, a well or other means of protective barrier shall be erected accordingly, said barrier not to encroach on the area required to sustain life of the same.
 - (l) In the event it is proposed to replace an existing tree or shrub or in the event a tree or shrub is killed, destroyed or substantially damaged during construction, it must be replaced by one or more trees or shrubs of equivalent size and of a type approved by the Shade Tree Commission. If replacing a tree with a trunk diameter greater than 2.5 to three inches measured 4.5 feet above the ground, in lieu of planting one tree with equivalent trunk diameter, a larger number of smaller trees may be planted, according to a formula based on the diameter of the trunk of the destroyed or damaged tree: For every two inches of tree diameter damaged or destroyed, plant one replacement tree acceptable to the Borough with a two-and-one-half to three-inch diameter measured one foot above planting level. To the extent such replacement tree or trees cannot reasonably be located upon the Borough street, right-of-way, highway, public place or park in place of the original existing tree, the Borough may designate an alternate location upon any Borough street, right-of-way, highway, public place or park.
- (2) Review. The Shade Tree Commission shall review a street tree management plan to determine its compliance with the requirements of this section. In reviewing the aforesaid items, the Shade Tree Commission may utilize the services of the Borough Manager, Borough Engineer, Arborist, or other Borough staff or consultants.
 - (3) Time for decision. The Shade Tree Commission shall, within 15 days after receipt of a complete application, render its decision.
- C. Maintenance guarantee. In the event the planting of trees or shrubs or the replacement of existing trees or shrubs is proposed, an applicant shall post a maintenance guarantee equal to 120% of the estimate of the Shade Tree Commission to plant or replace the same, which maintenance guarantee shall be subject to acceptance by the Borough Council. Upon completion of all construction or disturbance, an applicant may seek approval of planted or replaced trees and shrubs. All trees or shrubs which fail to survive for a period of three years following the approval thereof by the Shade Tree Commission shall be replaced at no cost or expense to the Borough. The replacement shall be made within 60 days following written demand for such replacement or within such additional time as the Shade Tree Commission may direct. In the event the applicant shall fail to comply with the written demand for such replacement by the Shade Tree Commission, the Council may default the guarantee upon notice to the applicant and the sum thereof shall be forfeited to the Borough of Mountain Lakes and applied to the budget of the Shade Tree Commission or Borough. A guarantee shall be released by the Council upon completion of all construction or disturbance, approval of planted or replaced trees and shrubs by the Shade Tree Commission and survival thereof for a period of three years following approval.

§ 102-36. Permit Required.

A. Regulations.

- (1) Except as exempted in § 102-38, no person, firm or corporation shall cut, remove, injure or damage

any protected tree without obtaining a Tree Removal Permit in accordance with the regulations and provisions of this Chapter.

- (2) Setback tree management plan required. The Construction Official shall not issue a construction permit for erecting or constructing a building or addition or alteration thereof or improvements upon a property, a road opening permit, or a soil moving permit until a setback tree management plan has been approved by the Borough Manager and implemented in accordance with the regulations and provisions of § **102-36**. Throughout a period of any construction, alteration or repair to any building or structure, or work on a site which is subject to an approved setback tree management plan, the owner, tenant, person, firm or corporation causing said construction, improvement or work shall in all respects comply with an approved setback tree management plan. The Planning Board or Zoning Board of Adjustment shall require as part of an application for development a setback tree management plan approved by the Borough Manager.
- B. Setback tree management plan and tree removal permit. When required by Subsection **A(1)** herein, an application for a tree removal permit shall be submitted on forms provided by the Borough Manager. When required by Subsection **A(2)** herein, a setback tree management plan for protected trees shall be submitted in like manner to § **102-35B**. A setback tree management plan must show the location of each protected tree within the setback area of the affected property. The plan must also include any tree or shrub on any Borough right-of-way abutting the affected property. The setback tree management plan must identify each protected tree and whether and how it will be protected. The setback tree management plan or tree removal permit must be approved by the Borough Manager in accordance with the procedures and standards set forth in Subsections **D** and **E** below. The Borough Manager may seek the advice of the Shade Tree Commission, the Borough Engineer, the Arborist or other Borough staff or consultants in making any of the decisions entrusted to the Borough Manager by § **102-36**. The Borough Manager shall render his decision on a setback tree management plan or tree removal permit within 15 days after receipt of a complete application and the completion of the neighbor notification period in Subsection **E**.
 - C. Appeal to Council. The applicant shall have the right to appeal the decision of the Borough Manager regarding the setback tree management plan or tree removal permit to the Council of the Borough within 10 days of receiving written notice of a decision. Said appeal shall be by written notice of appeal to the Borough Clerk. Upon receipt of said appeal, the Council shall proceed to hear said appeal upon notice to the applicant within 30 days after the filing of said notice of appeal. The Council may, in its discretion and upon complete review of the application and after hearing such testimony as may be warranted, reverse, modify or affirm the aforesaid decision.
 - D. Standards. Upon receipt of a setback tree management plan or application for a tree removal permit, the Borough Manager shall review it and inspect the site on which the protected trees are located. The Borough Manager shall consider the following factors in deciding whether to approve the setback tree management plan or the application for a tree removal permit:
 - (1) Whether the preservation of the protected tree or trees is important to the benefits of § **102- 33**.
 - (2) The overall effect of removal of such protected tree or trees on the physical and aesthetic value of the applicant's property and adjacent property.
 - (3) Whether the proposed removal would constitute a significant change in the screening between existing or proposed buildings on contiguous lots.
 - (4) Whether more than 50% up to a maximum of two of the protected trees (which does not include dead trees) in the setback area have been or will be removed in a twelve-month period.
 - (5) Whether the tree management plan is adequate to insure the safety and health of any protected trees and all street trees.
 - (6) Whether the proposed cutting or removal would impair the growth and development of the remaining trees on the applicant's property or adjacent property.

- (7) Whether the proposed cutting or removal would change existing drainage patterns.
- (8) Whether the proposed removal would allow soil erosion or increase dust.
- (9) Whether the proposed removal would constitute a horticulturally advantageous thinning of an existing overgrown area.
- (10) Whether existing conditions or proposed changes in the topography of the area where such protected tree or trees are located have depressed land configuration or fill of land which shall be deemed injurious to the protected trees or other trees located nearby so as to require welling, construction of an aerification system, or tree removal or replacement.
- (11) Whether the protected tree or trees are dying, diseased, or severely damaged, or the angle of growth makes them a hazard to structures, roads, or human life.
- (12) Whether the presence of the protected tree or trees is likely to cause hardship or will endanger the public or an adjoining property owner by reason of it being diseased or dead or for some other adequate reason with the intent of this article.

§ 102-37. Application Procedure.

- A. Application for a tree removal permit shall be made by submission of the following
 - (1) An application form provided by the Borough containing the following information: the name and address of the applicant; their e-mail address and phone number, the street address of the property in question and the number of tree(s) to be removed.
 - (2) The reason(s) for removing the trees.
 - (3) Any tree removal application, with an approved Planning Board site plan or subdivision, shall post a guarantee equal to 120% of the estimate to plant or replace same. The guarantee is applicable where the project is for new development or construction.
 - (4) A tree removal application shall include a tree removal plan with a diagram showing the location of all trees to be removed, the species of such trees, their diameter, the drip line of the trees to be removed and location of all existing and proposed structures on the property, and property lines. A reproduction of the tax map or an existing survey modified to provide this information would be acceptable.
- B. The fee for processing a tree removal permit shall be charged. The fee schedule is set forth in Chapter 111.
- C. The applicant shall place a one (1") inch wide yellow ribbon around the trunk of each tree to be removed at a height of four and one-half (4-1/2) feet above the ground so that the proposed tree removal may be inspected in the field.
- D. Tree Replacement Requirements
 - (1) Removal of street trees is allowed only with written permission from the Shade Tree Commission, as outlined in § 102-35.A(1), and replacement shall be under the jurisdiction of the Shade Tree Commission.
 - (2) Any person who removes one or more protected tree(s), unless exempt, with a DBH of 6", unless otherwise provided, shall be subject to the requirements of the Tree Replacement Requirements Table.
 - (3) Replacement tree(s) shall:
 - (a) Be replaced with a tree that meets the Tree Replacement Criteria in the table below
 - (b) Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;

- (c) Be monitored for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
- (d) Not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.
- (e) Be of the species listed in the "Recommended List of Replacement Trees" maintained on the Borough website and kept on file in the office of the Borough Clerk. Preference shall be given to native trees.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree calipers of 1.5" for each tree removed
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree calipers of 1.5" for each tree removed
4	DBH of 33" or greater	Replant 4 trees with minimum tree calipers of 1.5" for each tree removed

- (4) Replacement Alternatives. If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
 - (a) Plant replacement trees in a separate area(s) approved by the municipality.
 - (b) Pay a fee per tree removed as set forth in Chapter 111.

This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

§ 102-38. Exemptions

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification in the form of photographs or certifications from the property owner or tree removal professional shall be provided, in writing, by all persons claiming an exemption:

- A. The removal of two or fewer trees per year.
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;
- D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees.

- H. Invasive species, as listed on the New Jersey Invasive Species Strike Team website.
- I. Trees removed for safety reasons by a public utility company.

§ 102-39. Enforcement and Violations

- A. Enforcement. No person shall prevent, delay or interfere with any lawful work undertaken by the Shade Tree Commission or the Borough's authorized agent. The Code Enforcement Official of the Borough of Mountain Lakes and, in his absence, the Borough Manager are designated as the enforcing agent for this article. The enforcing agent may order any tree work, or other activity that is carried on in violation of any decision or any provision of this article, to be stopped forthwith. The order shall be issued in writing and a copy served upon any person engaged in tree work or other activity, the applicant and the owner of the lot. Except for such work as is necessary to remedy the violation, any further work shall comply with the terms and conditions of the decision and of this article.
- B. Violations and penalties for § 102-35. Any person violating any provision of § 102-35 shall be subject to penalties up to the amount provided in Article II of Chapter 1 of this Code, as amended and supplemented. Each tree or shrub illegally removed or damaged shall be a separate violation. Notwithstanding, the Borough or court may reduce the penalties and suspend the imprisonment and community service in the event the violator shall agree as follows.
 - (1) To abate the violation by replacing at his sole expense the tree or trees damaged or destroyed in accordance with the provisions of § 102-37;
 - (2) To reimburse the Borough for all reasonable charges of the enforcing authority, Council, Shade Tree Commission and Borough Attorney;
 - (3) In exercising the authority established hereby, for any tree or shrub upon any Borough street, right-of-way, highway, named park or trail, the Shade Tree Commission shall:
 - (a) Require that, for each tree irreparably damaged or destroyed, the violator plant a replacement tree or trees as specified by the Shade Tree Commission. The number of replacement trees required shall be based on the diameter of the damaged or destroyed tree(s) measured 4.5 feet from the ground. If the tree(s) has been cut to a height of less than 4.5 feet, or to ground level, then the diameter of the remaining stump(s) shall be used to determine the number of replacement trees required. If the tree and stump have been removed entirely, the last recorded diameter entered into the Street Tree Inventory Database shall be used to determine the number of replacement trees required. If there is a multiple trunk tree, then each trunk's diameter shall be measured and added together to determine the total diameter of the damaged or destroyed tree. In all cases, the number of replacement trees shall be determined by this formula: one replacement tree of no less than 2.5 to three inches in diameter measured one foot above planting level for every two inches of diameter of damaged or destroyed tree, unless otherwise approved by the Shade Tree Commission.
 - (b) Direct that replacement trees be planted near the location of damaged or destroyed trees and otherwise throughout the Borough.
 - (c) Require that the violator provide a maintenance guarantee of the survival and normal healthy development of replacement trees for a period of three years in an amount equal to 120% of the cost of replacement trees in accordance with § 102-35C.
- C. Violations and penalties for § 102-36. Any person violating any provision of § 102-36 shall be subject to penalties up to the amount provided in Article II of Chapter 1 of this Code, as amended and supplemented. Each tree illegally removed or damaged shall be a separate violation. Notwithstanding, the Borough or court may reduce the penalties and suspend the imprisonment and community service in the event the violator shall agree to abate the violation by replacing at his sole expense the tree or trees damaged or destroyed in accordance with the provisions of § 102-37.

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Chapter 245. Land Use and Zoning

Borough of Mountain Lakes, NJ

Article I. General Provisions

§ 245-1. Short title.

This chapter shall be known and may be cited as the "Land Use and Zoning Ordinance" of the Borough of Mountain Lakes.

§ 245-2. Purpose; enforcement; violations and penalties.

- A. The purpose of this chapter shall be to exercise the authority delegated to municipalities under the Land Use Law, N.J.S.A. 40:55D-1 et seq., to regulate development and the use of land in conformance with the purposes of such law.
- B. The provisions of this chapter shall be administered by the Borough Planning Board and enforced by the Construction Official, Code Enforcement Official, Zoning Officer, or such other officer or employee designated by the Borough Manager. Such official may refer any matter to the Planning Board or Zoning Board of Adjustment for determination if within that Board's jurisdiction.
- C. Penalties for violation of any provision of this chapter shall be as set forth in Chapter 1, §1-17 of this Code.
- D. Any matters which are not expressly regulated by this chapter shall be governed by those applicable provisions of the Municipal Land Use Law. In the event of any conflict between the Land Use and Zoning Ordinance of the Borough of Mountain Lakes and the Municipal Land Use Law, the terms of the Municipal Land Use Law shall control.

§ 245-3. Definitions.

Certain words, phrases and terms in this chapter are defined for the purpose thereof as follows, unless the context otherwise requires. Additional definitions of a special nature will be found in the respective chapters. If any definition conflicts with the provisions of the Municipal Land Use Law, the provisions of the Municipal Land Use Law shall govern. If this chapter adds any provisions concerning definitions, which provisions are not contained in the Municipal Land Use Law, the provisions of this chapter shall govern.

ACCESSORY STRUCTURE

A structure naturally and normally incidental and subordinate to the main structure on the premises.

ACCESSORY USE

A use naturally and normally incidental and subordinate to the main use of the premises.

ADMINISTRATIVE OFFICER

The administrator appointed by the Borough Manager. This administrator may serve as the Secretary of the Planning Board and/or the Zoning Board of Adjustment. Also, more generally, "administrative officer" shall be defined as the term is used in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., when appropriate to the context.

ADULT DAY-CARE FACILITY

A nonresidential facility typically operating several hours per day, providing meals, social and recreational activities, transportation, personal care and counseling under general supervision for elderly persons and/or persons with disabilities.

AFFORDABLE HOUSING

A residential dwelling which is sold or rented at a rate within the means of a low- or moderate- income household as defined in N.J.A.C. 5:93-7.4.

ALTERATION

A change or rearrangement in a structure or the structural parts of an existing facility or an enlargement, whether by extension of a site or by increasing in size or height, or by moving from one location or position to another.

ANTENNA

Any exterior transmitting or receiving device that transmits, receives, magnifies, captures or radiates electromagnetic waves, digital signals, analog signals and radio frequencies.

APPLICANT

A developer submitting an application for development.

APPLICATION FOR DEVELOPMENT

The application or appeal form and all accompanying documents required for approval of a subdivision plat, site plan, cluster development, conditional use, zoning variance or direction for the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D-36.

ASSISTED LIVING RESIDENCE

A facility licensed by the New Jersey Department of Health that provides apartment-style housing, congregate dining, and provides assisted living services available when needed. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

ATTIC

A space, under a sloping roof, in which the possible floor area with headroom of five feet or more occupies less than 40% of the total floor area of the story directly beneath.

AUTOMOTIVE SERVICE STATION or GASOLINE STATION

A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including sale of accessories, greasing, oiling and light motor service on the premises.

BASE STATION, EXISTING

Any lawfully existing structure other than a tower that, at the time of review or consideration, already supports or houses lawfully existing FCC-licensed or FCC-authorized wireless transmission equipment, even if such structure was not initially built for the sole or primary purpose of supporting or housing wireless transmission equipment.

BASE STATION, PROPOSED

Any proposed or lawfully existing structure other than a tower that is being proposed to be used to support or house FCC-licensed or FCC-authorized wireless transmission equipment and which does not, at the time of such proposal, already support or house wireless transmission equipment.

BASEMENT

That portion of a building that is partly or completely below grade. See also "story above grade."

BEDROOM

A room planned, used or intended primarily for sleeping.

BLOCK

An area comprised of individual lots as identified on the tax maps of the Borough of Mountain Lakes.

BOARD OF ADJUSTMENT

Zoning Board of Adjustment.

BUILDING

A combination of materials, having a roof, to form a construction or structure adapted to permanent, temporary or continuous occupancy.

BUILDING COVERAGE

That area of a lot which is directly occupied by a building or structure, but not including uncovered walkways, steps, patios, a parking lot or any similar improvements thereto. See also "improved lot coverage."

BUILDING ENVELOPE

That portion of the lot area located within applicable setback lines required in Schedule I of Chapter **245**, available to be used for the placement of buildings and associated improvements.

BUILDING HEIGHT

A. RESIDENTIAL ZONES

The vertical distance measured from the average elevation of either the existing (original) or finished grade, whichever is lower, at the front of the building to the highest point of the roof, excluding chimneys. The average elevation shall be determined by taking measurements at approximately ten-foot intervals, six feet from the building wall, and averaging them. When a building faces on more than one street, each such elevation shall be considered a front elevation, and the height shall be measured on each street. In such a case, each height must meet the bulk requirements specified in Schedule I. See also **§245-87**

B. NONRESIDENTIAL ZONES

The vertical distance measured from the average elevation of the finished grade at the front wall of the structure, or above the highest street if the property faces two streets. Chimneys, utility and mechanical equipment, parapet walls, cornices and similar projections shall not be included in calculating building height; provided that any roof-mounted projections cover no more than an aggregate total of 5% of the roof area and that parapet walls, cornices, and similar architectural projections do not exceed the necessary height to screen roof-mounted utility structures or other equipment.

BUILDING PERMIT

Construction permit.

BUILDING, PRINCIPAL

A building or structure in which is conducted the principal use of the site on which it is situated.

CABLE TELEVISION COMPANY

A cable television company as defined pursuant to Section III of P.L. 1972, c. 186 (N.J.S.A. 48:5A-3).

CAPITAL IMPROVEMENT

Governmental acquisition of real property or major construction project.

CERTIFICATE OF OCCUPANCY

The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and regulations adopted pursuant thereto.

CHANNEL

A watercourse with a defined bed and banks which confine and conduct continuously or intermittently flowing water.

CHARGING LEVEL

The amount of voltage provided to charge an electric vehicle varies depending on the type of Electric Vehicle Supply/Service Equipment (EVSE) as follows:

- Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
- Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
- Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three-phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

CHILD-CARE CENTER

Any home or facility, by whatever name known, which is maintained for the care, development or supervision of six or more children under six years of age, who attend for less than 24 hours a day, or any such facility for which a license is required from the State of New Jersey.

CLUB

An organization, corporation or association operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes and not for private gain.

CLUSTER DEVELOPMENT

An area to be developed as a single entity according to a plan containing residential units that have a common or public open space area as an appurtenance.

CODE ENFORCEMENT OFFICIAL

A person appointed by the Borough Manager to enforce and administer the Uniform Construction Code, building subcode, fire subcode, plumbing subcode, and all applicable chapters of this Code as required and may issue summonses for violations thereof.

COLLOCATION

Use of a common wireless telecommunications facility or a common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a wireless telecommunications facility on a structure owned or operated by a utility or other public entity.

COMMON OPEN SPACE

An open space area within a site designated as a cluster development and designed and intended for the use and enjoyment of residents of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the common use or enjoyment of residents and owners of the development. See also "open space" and "public open space."

COMPLETE APPLICATION

An application form completed as specified in this chapter and certified as such by the administrative officer.

CONCEPT PLAN

Information in the form of text, maps or oral presentations that enables the Board to conduct a brief and informal review of an application for development, prior to the filing of a complete application, for the

purpose of advising the applicant on general procedures and design questions. See also "plat, sketch."

CONDITIONAL USE

A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning regulations and upon the issuance of an authorization therefor by the Planning Board.

CONSTRUCTION OFFICIAL

A person licensed by the State Department of Community Affairs as a building subcode official and who may also be appointed by the Borough Manager to act as Zoning Officer.

CONSTRUCTION PERMIT

Certification by the Construction Official that the plans are in conformance with the applicable ordinances and that construction may be initiated.

CONTRIBUTING DWELLING

- A. One of the dwellings that:
 - 1. Were constructed on or before December 31, 1938;
 - 2. Are listed as "contributing buildings" within the Mountain Lakes Historic District in the National Register of Historic Places Registration Form for the Mountain Lakes Historic District; and
 - 3. Have not been demolished; and
- B. Such other structures as are designated as "contributing dwellings" by ordinance upon the recommendation of the Committee and the Planning Board.
- C. All Contributing Dwellings shall be found listed on Schedule II of this chapter.

CONVENTIONAL DEVELOPMENT

Development other than cluster development.

COUNTY DEVELOPMENT STANDARDS

The current land development standards of the County of Morris, New Jersey, as adopted by the Morris County Board of Chosen Freeholders and as amended or supplemented, pursuant to N.J.S.A. 40:27-6.1 et seq.

CRITICAL ENVIRONMENTAL AREA

Any area which is environmentally sensitive, such as the prime aquifer area, or which, if disturbed during construction or operation of the proposed development, would adversely affect the environment, including but not limited to stream corridors, flood hazard areas, steep slopes, highly erodible soils, areas of high water table and mature stands of native vegetation.

CUL-DE-SAC OR DEAD-END STREET

A street or portion of a street to which accessibility is limited to only one means of vehicular ingress or egress.

CUT

A portion of land surface or area from which earth has been or will be removed, dug, quarried, uncovered, displaced or relocated. Synonymous with "excavation."

DAYS

Calendar days.

DEDICATION

The transfer of property from private to public ownership for the purpose of public usage of such property.

DEMOLITION or DEMOLISH

When used in connection with a historic resource, the razing, dismantling or destruction, whether entirely or in significant part, of any contributing dwelling or historic building, structure, site, object or improvement.

DENSITY

The permitted number of dwelling units per gross area of land to be developed.

DEVELOPER

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 any other person having an enforceable proprietary interest in such land.

DEVELOPER'S AGREEMENT

A contract between the Borough Council and a developer concerning the implementation of, and guaranties for, development plans.

DEVELOPMENT

The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; 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 the Municipal Land Use Law.

DEVELOPMENT REGULATION

A zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to the Municipal Land Use Law or adopted as part of this chapter.

DISH ANTENNA

A dish-shaped antenna designed to receive television broadcasts relayed by microwave signals from earth-orbiting communications satellites.

DRAINAGE

The removal of surface water or groundwater from land by drains, grading or other means, and including control of runoff to minimize erosion and sedimentation during and after construction or development and the means necessary for water supply preservation or the prevention or alleviation of flooding.

DRAINAGEWAY

The topographical pattern or system of drainage of surface water runoff on a particular site which carries surface water in a natural drainage flow or watercourse. See "public drainageway."

DRIVE-IN RESTAURANT

An establishment where food and/or beverages are served or delivered through a window or other opening in the building to customers located outside the building, whether in motor vehicles or otherwise. Shall be synonymous with "Drive-Through Restaurant or "Restaurant with Drive-Through Facility."

DWELLING

Any permanent building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons. Rooming or boarding houses and other similar group quarters and institutional living space shall not constitute a dwelling as defined in this chapter.

DWELLING UNIT

One or more rooms occupied or intended for occupancy as separate living quarters by one family or household, provided that separate cooking, sleeping and sanitary facilities are provided within the dwelling for the exclusive use of the occupants thereof.

EASEMENT

A right given by the owner of land to another private or public party for specific limited use of such land.

EDUCATIONAL PLAY CENTER

A multipurpose children's activity space devoted to learning, recreation and entertainment, which may offer classes and organized events such as birthday parties, and which may include accessory retail sales.

EDUCATIONAL USE

Public, parochial and private elementary and secondary schools duly licensed by the State of New Jersey, attendance at which is a sufficient compliance with the compulsory education requirements of the state. Educational uses shall also include institutions of higher education duly licensed by the State Office of the Secretary of Higher Education.

ELECTRIC VEHICLE

Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (EVSE)

The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

ELIGIBLE FACILITIES REQUEST

Any request for modification of an existing tower or base station that does not substantially change (as defined in **§245-93**) the physical dimension of such tower, base station or equipment, and involving collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment.

ELIGIBLE SUPPORT STRUCTURE

Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the Planning Board or Zoning Board.

ENVIRONMENTAL COMMISSION

A municipal advisory body established in Chapter 9.

ENVIRONMENTAL IMPACT STATEMENT

A written report with illustrations, prepared in accordance with the requirements of this chapter, which identifies the environmental, social or economic conditions which may be changed, and the extent to which they may be changed, by a proposed development.

ENVIRONMENTAL ORDINANCE

Chapter 102 of the Code of the Borough of Mountain Lakes.

EQUIPMENT COMPOUND

An area surrounding or adjacent to the base of a wireless telecommunications tower, or surrounding, adjacent to, within or upon a wireless telecommunications base station, in which wireless transmission equipment is located.

EROSION

The detachment and movement of soil or rock fragments by the action of water, wind, gravity, or ice.

ESVE, PRIVATE

EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

ESVE, PUBLICLY-ACCESSIBLE

EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

EXCAVATION

Any act by which land or rock is cut into, dug, quarried uncovered, removed, displaced or relocated.

EXISTING GRADE

The vertical location of the existing surface of land prior to grading, excavation or other land disturbance.

FAMILY

Synonymous with "household."

FENCE

An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FILL

Sand, gravel, earth or other materials of any composition placed or deposited by any person or persons.

FINAL APPROVAL

The official action of the Planning Board or Zoning Board of Adjustment taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion, or approval conditioned upon the posting of such guaranties.

FINAL PLAT

See "plat, final."

FLOOD DAMAGE POTENTIAL

The susceptibility of a specific land use at a particular location to damage by flooding and the potential of the specific land use to increase off-site flooding or flood-related damages.

FLOOR AREA

The sum of the gross horizontal areas of all stories, stories above grade, half stories, stairways, garages, breezeways, porches, and decks of all buildings on site, as measured from the exterior surface to the outside walls or roof of the building or from a center line of the wall separating two structures. Floor area shall be calculated for the corresponding building type and subject to the exceptions specified herein:

- (1) For residential uses., floor area shall be the sum of the gross horizontal areas of:
 - a. All stories, stories above grade, half stories and stairways of all principal buildings on site.

- b. Garages and sheds except that the first 500 square feet of aggregate area shall be excluded.
 - c. Roofed breezeway, porches and decks, which are open or enclosed solely by screening, except that the first 500 square feet of aggregate area shall be excluded.
 - d. Floor area shall exclude attics, basements, port cocheres, and unroofed porches and decks
- (2) For all other non-residential uses, floor area shall be the sum of the gross horizontal areas of all floors of a building, including halls, stairways, elevator shafts, attached porches, and balconies but excluding basement areas used only for storage or for the operation and maintenance

FLOOR AREA RATIO (FAR)

The sum of the floor areas of all buildings or structures expressed as a percentage of the total area of the site. For single-family dwellings involving a room with walls at least 5 feet in height and a cathedral ceiling or similar architectural treatment to create volume spaces within the room, each one (1) square foot of floor area shall be counted as follows for purposes of FAR according to the ceiling height:

- 5 to 9.99 feet: 1 square foot
- 10 to 13.99 feet: 1.5 square feet
- 14 to 16.99 feet: 2 square feet
- 17 feet or higher: 2.5 square feet

FRONTAGE

See "lot frontage."

FRONT YARD

An open space which lies between the setback line of the principal building and the front lot line.

GARAGE

A building or roofed structure primarily intended for the storage of one or more vehicles. A garage maintained for the resident occupant of the premises and in which no service is rendered to the public or business conducted is a private garage. Any garage other than a private garage is a public garage.

GRADE

- A. The finished ground elevation of a property at project completion.
- B. The slope of a street, path, swale or other surface expressed as a percentage.

GRADE PLANE

A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground slopes away from the exterior walls, the reference plane shall be established by the lowest points between the building and a point six feet from the building. Finished ground level shall be measured at ten-foot intervals at a point six feet from the building utilizing either existing or proposed grades, whichever is lower.

GRADING

Any stripping, cutting, filling, stockpiling or any combination thereof, and includes the land in its cut or filled condition.

HAZARDOUS SUBSTANCES

Substances that are dangerous or potentially detrimental to health, safety and welfare; those elements and compounds, including petroleum products, which are defined as such by the New Jersey Department of Environmental Protection and Energy and which shall be consistent, to the maximum extent possible, with, and which shall include, the list of hazardous substances adopted by the Federal Environmental Protection Agency pursuant to Section 311 of the Federal Water Pollution Control Act, Amendments of 1972, Pub. L. 92-500 (33 U.S.C. § 1321), as amended; and the list of toxic pollutants

designated by Congress or the Environmental Protection Agency pursuant to Section 307 of that Act (33 U.S.C. § 1317); except that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of this chapter.

HEALTH AND FITNESS FACILITY

An establishment open to the public on a membership basis which provides facilities for personal training, aerobic exercise, running and jogging, weight training and strength conditioning, game courts, swimming facilities and exercise equipment and which may include accessory sauna/steam rooms, showers, lockers, spa treatments, including massage, snack/juice bars and accessory retail sales of related sports apparel and equipment.

HEIGHT

Building height.

HISTORIC DISTRICT

The Mountain Lakes Historic District in the New Jersey Register of Historic Places and the National Register of Historic Places.

HISTORIC RESOURCE

Any buildings, structures, sites, objects, improvements or landscapes which are integral components either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant.

HISTORIC SITE

Any building, structure, area or property that is significant in the history, architecture, archaeology or culture of the state, its communities or the nation and that has been so designated, pursuant to state or federal laws.

HOME OCCUPATION

An activity carried out for gain by a resident and conducted within the resident's dwelling unit.

HOUSEHOLD

Any number of individuals related by blood, marriage or adoption, or a limited number of individuals unrelated by blood, marriage or adoption, living together as a single housekeeping unit and using rooms, sanitary and cooking facilities in common. The number of unrelated individuals in a household shall not exceed the number of bedrooms in the dwelling unit. One on-site parking space shall be provided for each car owned by a resident. This definition shall not be construed to exclude up to two domestic employees in addition to a family related by blood, marriage or adoption, nor to exclude foster children living with such family in a regular parent-child relationship.

IMPROVED LOT COVERAGE

That portion of a lot which is improved or is proposed to be improved with principal and accessory buildings or structures; driveways, paved or otherwise; breezeways, porches or roofed decks; pools, patios; parking lots; pedestrian walkways; signs, walls or other impervious man-made improvements on the ground surface.

INDOOR COMMERCIAL RECREATION USE

An establishment where entertainment or recreation services are provided to the general public, and for which user fees are charged. Uses include, but are not limited to roller and ice skating rink, indoor climbing gyms, gymnastics centers, bowling alleys, arcades, escape rooms, billiards and virtual experience centers.

INFORMAL REVIEW

A review by the Planning Board of a concept plan for a development for which the developer intends to prepare and submit an application for development. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review.

INSTITUTIONS

Schools, churches, clubs, libraries and public facilities (other than municipal), but not including hospitals, assisted living facilities, or convalescent or nursing homes.

INSTRUCTIONAL SCHOOLS AND STUDIOS

Establishments which provide classes and workshops for dance, yoga, pilates, culinary arts and crafts, music, martial arts, academics and athletics.

INTERESTED PARTY

Any person or legal entity whose right to use, acquire or enjoy property is or may be affected by any action taken by the Planning Board or the Board of Adjustment under this chapter.

LAND

Any ground, soil, or earth, including marshes, swamps, drainageways and areas not permanently covered by water within the municipality.

LAND DISTURBANCE

Any activity involving the clearing, excavating, storing, grading, filling or transportation of soil, or any other activity which causes soil to be exposed to the danger of erosion.

LOADING AREA

An on-site accommodation for the parking of a commercial vehicle during the process of transferring articles, materials, goods or merchandise between the vehicle and a building.

LOT

A designated parcel, tract or area of land, established by a plat or otherwise as permitted by law to be used, developed or built upon as a unit. The fact that a parcel, tract or area is designated as a separate lot on the Borough tax map does not mean that it meets this definition.

LOT AREA

The area contained within the lot lines but not including any street right-of-way.

LOT, CORNER

A lot fronting on two streets at their intersection. The greater frontage of a corner lot is its depth, the lesser frontage its width.

LOT COVERAGE

See "building coverage" or "improved lot coverage," as applicable.

LOT DEPTH

The mean distance between the front and rear lot lines measured in ten-foot intervals throughout its width parallel to a line connecting the midpoints of the front and rear lot lines.

LOT DIMENSIONS

The Planning Board may modify the method of computing the lot dimensions when required by unusually shaped lots where literal enforcement would be impracticable or would be contrary to the intent of the chapter.

LOT FRONTAGE

The distance between the side lot lines at their foremost points where they intersect with the street line, measured in a straight line. The street frontage of a corner lot shall be considered to be the distance between the side lot line and the street side lot line projected to meet the front lot line.

LOT LINE

A line of record bounding a lot.

LOT LINE, FRONT

The lot line along the right-of-way or along a private lot road line.

LOT LINE, REAR

The lot line opposite and most distant from the front line and most parallel to same.

LOT LINE, SIDE

Any lot line other than a front or a rear lot line.

MAINTENANCE GUARANTEE

Any security which may be accepted by a municipality for the maintenance of any improvements required by the Municipal Land Use Law or this Chapter, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A 40:55D-53.5, and cash.

MAJOR SITE PLAN

A site plan not classified as a minor site plan.

MAJOR SUBDIVISION

Any subdivision not classified as a minor subdivision.

MAKE-READY PARKING SPACE

The pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a “plug and play” basis. “Make-Ready” is synonymous with the term “charger ready,” as used in P.L.2019, c.362 (C.48:25-1 et al.).

MASTER PLAN

A composite of the mapped and written proposals recommending the physical development of the Borough which shall have been duly adopted by the Planning Board, pursuant to the Municipal Land Use Law.

MINOR SITE PLAN

A development plan of one or more lots not requiring variances or conditional use approval, any new street or the extension of any off-street improvement, the cost of which is to be prorated or assigned, pursuant to this chapter. Such development, as determined by the Planning Board, must be of minor extent as to both site improvements and off-site impact.

MINOR SUBDIVISION

A subdivision of land that does not result in more than three lots, including the remaining lot or parcel, or involve a cluster development, any new street or the extension of any off-tract improvement, the cost of which is to be prorated or assigned, pursuant to this chapter. Any subsequent subdivision from any

tract of land, as such tract exists at or after the time of passage of this chapter, which is submitted within a five-year period from the date of approval of the previous minor subdivision shall, for the purpose of administering the provisions of this chapter, be construed as a major subdivision.

NONCONFORMING BUILDING OR STRUCTURE

A building or structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

NONCONFORMING LOT

A lot the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

NONCONFORMING USE

A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

NUISANCE

Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

NURSERY SCHOOL

See "child-care center."

NURSING HOME

A building, other than a hospital that provides health care under medical supervision and continuous nursing care for 24 or more consecutive hours to patients who do not require the degree of care and treatment which a hospital provides and who, because of their physical or mental condition, require continuous nursing care and services above the level of room and board.

OBLIGOR

Any individual, firm, association, corporation or other legal entity and shall include either the subdivider or other owner or both as may be required by the Borough. The obligor shall be responsible for posting and executing any required performance guarantee.

OCCUPANCY, NONRESIDENTIAL

The use of any structure for any other purpose than dwelling.

OCCUPANCY, RESIDENTIAL

The use of any structure for dwelling purposes for any period of time.

OFFICE, GENERAL OR BUSINESS

A room or group of rooms used for conducting executive or administrative purposes related to business, service, or commerce, but not including professional offices.

OFFICE, PROFESSIONAL

A building, room, or group of rooms used for purposes of a recognized profession such as that of a physician, dentist, lawyer, engineer, accountant, architect and other professions requiring a like amount of education and training.

OFFICIAL MAP

A document adopted pursuant to the provisions of § 245-44.

OFF SITE

Located outside the lot lines of the lot in question.

OFF TRACT

Not located on the property which is the subject of an application for development nor on a contiguous portion of a street or right-of-way.

ON SITE

Located on the lot in question.

ON TRACT

Located on the property which is the subject of an application or on a contiguous portion of a street or right-of-way.

OPEN SPACE

Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land. See "common open space."

OWNER

An individual or other legal entity having proprietary interest in the land. Under this chapter, an owner may also be a developer.

OWNERSHIP, COMMON

Two or more contiguous parcels of real property in substantially the same ownership.

OWNERSHIP, SINGLE

A separate parcel of real property not contiguous to land in substantially the same ownership.

PARCEL

A lot or a contiguous group of lots in common or single ownership or under single control and considered a unit for purposes of development. Synonymous with "plot," "site," and "tract."

PARKING AREA, PRIVATE

Any open area used for the temporary storage of registered, operable automobiles and other vehicles for the private use of the owners or occupants of the lot on which the area is located.

PARKING AREA, PUBLIC

Any open area, other than a road or other public way, used for the temporary storage of operable, registered automobiles and other vehicles and available to the public, whether for a fee or without compensation or as an accommodation for clients, customers or employees.

PARKING SPACE

An accommodation for the off-street parking of one operable, registered motor vehicle, within a private or public parking area.

PARTY IMMEDIATELY CONCERNED

For purposes of notice, any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice, pursuant to the Municipal Land Use Law.

PERFORMANCE GUARANTEE

Any security, which may be accepted by a municipality, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A 40:55D-53.5, and cash.

PERMITTED USE

Any use which shall be allowed subject to the provisions of this chapter.

PERSON

Any natural person or legal entity.

PET CARE AND GROOMING FACILITY

An establishment that provides temporary boarding; training, grooming and care for dogs, cats or other domestic animals or household pets. This shall not include overnight boarding of pets, the breeding or sale of animals or veterinary services customarily offered at an animal clinic or hospital.

PHILANTHROPIC INSTITUTION

A private or public organization that is organized and operated for the purpose of providing a service or carrying on a trade or business without profit and for charitable purposes, and which may provide educational, cultural, recreational, religious, or similar types of programs.

PLACE OF ASSEMBLY

A building or structure devoted to the gathering together of persons for a common reason, such as political, civic, recreational, entertainment, or social purposes, whether for the purpose of financial gain or not, but including but not limited to an auditorium, library or museum, but not including a place of worship or a public or private school.

PLACE OF WORSHIP

A building that is used for prayer and/or other religious observances and that is architecturally designed and particularly adapted for the primary use of conducting religious services on a regular basis, including a church, synagogue, temple, mosque or other space.

PLAN

Written and graphic materials describing provisions for development, including a plat for a site plan or subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, public or private streets, ways and parking facilities, open space and public facilities.

PLANNING BOARD

The Board established in Article II.

PLAT

A map or maps of a subdivision or site plan.

PLAT, FINAL

The final map or maps of all or a portion of the subdivision or site plan which are presented to the Planning Board for final approval in accordance with this chapter and which, if approved, shall be filed with the clerk of the County of Morris for recording in accordance with the law.

PLAT, PRELIMINARY

The maps indicating the proposed layout of the subdivision or site plan which shall be submitted to the Planning Board for preliminary approval and which meet the requirements of this chapter.

PLAT, SKETCH

The map or maps of a development proposal of sufficient accuracy to be used for the purpose of discussion and classification and meeting the requirements of this chapter. See also "concept plan."

PLAY EQUIPMENT

Any structure or structures erected on a residential property intended for play or recreation, including jungle gyms and swing sets but excluding basketball hoops. A playhouse shall not be considered play equipment but for all purposes shall be considered an accessory structure, building or improvement.

POTENTIAL AQUIFER POLLUTANTS

- A. Any material which is listed on the list of Environmental Protection Agency (EPA) pollutants, 40 CFR 116.4 and 401.15, as amended;
- B. Any chemical listed as acutely toxic in Appendix A of the EPA Chemical Emergency Preparedness Program, Interim Guidelines;
- C. Any material which is classified by the National Fire Protection Association (NFPA) as either a flammable liquid, a Class II combustible liquid or a Class IIIA combustible liquid; or
- D. Any material which is listed or defined as explosive, flammable, reactive or corrosive by the Department of Transportation, 49 CFR 172.101, as amended.

PRELIMINARY APPROVAL

The conferral of certain rights as to site plans and major subdivisions, pursuant to this chapter, prior to final approval and after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

PREMISES

A lot or parcel of ground, including any structures thereon.

PROHIBITED USE

Any use which shall not be allowed.

PUBLIC AREAS

Public parks, playgrounds, trails, paths, lakes, streams and other recreational areas and public open spaces; scenic and historic sites; and sites for schools and other public buildings or structures.

PUBLIC DRAINAGEWAY

The land reserved or dedicated for the installation of stormwater sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion. See also "drainageway."

PUBLIC OPEN SPACE

An open space area conveyed or otherwise dedicated to the Borough, a Borough agency, the Board of Education, a state or county agency or any other public body for recreational or conservational uses. See also "common open space."

PUBLIC OR PRIVATE SCHOOL

An educational institution licensed by the State providing primary and secondary education through grade 12 in subjects and classes meeting the requirements of the State Compulsory Education laws.

PUBLIC UTILITY FACILITIES

Telephone, cable television and electric lines, poles, equipment and structures, water or gas pipes, hydrants, valves, mains or structures or sewer pipes, together with accessories and appurtenances, maintained, operated and conducted for the service, convenience, necessity, health and welfare of the public.

QUORUM

The majority of the full authorized membership of a Borough agency.

RECREATION, COMMERCIAL

Facilities operated as a business and open to the public for a fee.

RECREATION, COMMERCIAL PRIVATE

Facilities operated as a business and open only to bona fide members and guests of such organization.

RECREATION, NONCOMMERCIAL PRIVATE

Facilities operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

REPLACE or REPLACEMENT

When used in connection with a contributing dwelling or a component or feature of a contributing dwelling, the act or process of replicating any exterior architectural feature that is used to substitute for a deteriorated or extensively damaged architectural feature.

RESIDENTIAL DENSITY

The number of dwelling units per gross acre of residential land area, including streets and open space portions of a development but excluding prior easements.

RESIDENTIAL SITE IMPROVEMENT

Any street, road, parking facility, sidewalk, drainage structure and/or utility for a residential subdivision and/or site plan.

RESIDENTIAL SITE IMPROVEMENT STANDARDS

The statewide standards adopted by the New Jersey Department of Community Affairs at N.J.A.C. 5:21 governing the construction, alteration, addition, repair, removal, demolition, maintenance and use of residential site improvements.

RESTAURANT

An establishment regularly used for the purpose of providing food and refreshment for consumption by the public inside the premises. A restaurant may include the sale of takeout items (that is, food or beverage items which are ready for consumption and are packaged to be taken off the premises and consumed elsewhere), provided that the sale of such items is clearly a subordinate and incidental part of the restaurant business. It may include outdoor dining facilities subject to submission of and approval of a site plan by the Planning Board. All service is to be provided by employees of the restaurant, including cleanup of tables.

RESTORATION

The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time. It may sometimes mean the removal of later work or the replacement of missing earlier work.

RETAIL BUSINESS

An establishment engaged in selling goods or services to the general public for personal or household

use or consumption. Retail businesses shall include, but not be limited to, clothing boutiques, bookstores and establishments where food and/or beverage items which are prepared and ready for consumption are sold and delivered to the customer inside a building and are packaged to be taken off the premises and consumed elsewhere. They may include outdoor dining facilities subject to submission and approval of a site plan by the Planning Board. All service is to be provided by employees of the establishment, including cleanup of tables. Such business shall include, without limitation, bakeries and delicatessens.

RETAIL SALES

The sale of items on the premises directly to the consumer and not for resale.

RETAINING WALL

A structure constructed to hold back or support an earthen bank.

RIGHT-OF-WAY

The strip of land on which a street, path or municipal utility is located, owned by or dedicated to the public.

RIGHT-OF-WAY LINE

The boundary of a right-of-way.

ROAD, PUBLIC

A street which has been accepted and is maintained by the Borough, or any federal, state or county road.

ROOMER

An individual who rents or occupies, as a lodger, a room without cooking facilities, in a residence owned by another, on other than a transient basis.

ROOMING HOUSE

A building containing two or more sleeping and dwelling rooms, with or without private bath, which are rented to individuals on other than a daily or transient basis and where no meals are cooked for and served to roomers.

SATELLITE DRY-CLEANING ESTABLISHMENT

An establishment where clothes and other types of fabrics are dropped off and picked up before and after dry cleaning, which process is conducted entirely off-premises.

SEDIMENT

Solid material, both mineral and organic, that is in suspension, is being transported or has been removed from its site of origin by air, water or gravity as a product of erosion.

SEDIMENTATION

The deposit of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

SELF-STORAGE FACILITY

A building or group of buildings containing individual and private storage spaces of varying sizes available for lease or rent for varying periods of time and where the occupants have access to the facility only to store and remove their personal property.

SETBACK LINE

That line to which any principal or accessory building and any porches, patios, decks carports or similar

appurtenances attached to a building, whether or not enclosed, must be set back from the street line or lot lines. The setback distance shall be measured at right angles to the street line or lot line.

SEXUALLY ORIENTED ESTABLISHMENT

- A. An establishment or other organization, whether for profit or not, that regularly offers any one or more of the following products or services as a substantial portion of its business or operation:
- (1) Sale, rental, use, dissemination or display of any of the following: books, magazines, periodicals or other printed material or photographs, films, motion pictures, videocassettes, slides or other visual representations which depict or describe a specified sexual activity or specified anatomical area; or still or motion picture machines, projectors or other image-producing devices where the images so displayed are characterized by the depiction of a specified sexual activity or specified anatomical area; or instruments, devices or paraphernalia which are designed for use in connection with a specified sexual activity;
 - (2) Waiters, waitresses, dancers or other live performances characterized by the exposure of a specified anatomical area or by a specified sexual activity; or
 - (3) Massage or other manipulation of a specified anatomical area or involving a specified sexual activity or administered to or by a person with any specified anatomical area not completely and opaquely covered.
 - (4) "Specified anatomical area" means less than completely covered and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola, or human male genitalia in a discernibly turgid state, even if covered.
 - (5) "Specified sexual activity" means The fondling or other erotic touching of covered or uncovered human genitalia, pubic region, buttock or female breast, or any actual or simulated act of human masturbation, sexual intercourse or deviate sexual intercourse.
- B. A hotel, motel, club or other establishment, whether for profit or not, which provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other visual representations which depict or describe a specified sexual activity or specified anatomical area; or offers a sleeping room for rent for a period of time that is less than 10 hours; or allows an occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours; or provides any of the other products or services described in Subsection **A(1)** through **(3)** above.

SIGN

Any object, device, display, or structure, or part thereof, whether freestanding or attached to a building or structure, or erected, painted, represented or reproduced upon or in any building or structure, used for visual communication to advertise, identify, display, or bring the subject thereof to the attention of the public by means of any letter, word, name, symbol, figure, number, model, insignia, design, color, illumination, projection, or representation. "Sign" shall include "billboard." See also specific definitions at **§245-114**.

SITE PLAN

A development plan of one or more lots on which is shown the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways; the location of all existing and proposed buildings, driveways, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices; and any other information that may be reasonably required in order to make an informed determination as to approval of the plan by the Planning Board, pursuant to this chapter.

SOIL

Upper layer of ground consisting of rock, dirt, minerals and organic matter.

SOIL CONSERVATION DISTRICT

The Morris County Soil Conservation District, which is a governmental subdivision of this state organized in accordance with the provisions of Chapter 24, Title 4 (N.J.S.A. 4:24-1 et seq.).

STANDARDS

Design and maintenance regulations and criteria.

STORY

That portion of a building included between the surface of any one floor and the ceiling next above it. See also "basement," "story above grade," "story, half," and "attic."

STORY ABOVE GRADE

Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is more than six feet above grade plane; more than six feet above the finished ground level for more than 50% of the total building perimeter; more than 12 feet above finished ground level at any point. Finished ground level shall be measured at ten-foot intervals at a point six feet from the building utilizing either existing or proposed grades, whichever is lower.

STORY, HALF

A partial story under a roof which has the line of intersection of the roof and the wall face not more than three feet above the floor level and in which space the floor area with headroom of five feet or more occupies no less than 40% and no more than 80% of the area of the story directly beneath. Where such floor area occupies less than 40%, it shall be considered an attic. Where it occupies more than 80%, it shall be considered a story. Dormers are included in determining the story status. See also "story."

STREET

Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or Borough roadway, or a street or way shown upon a plat hereto approved pursuant to law or approved by official action, or a street or way on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats. "Street" shall include the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines.

STREET LINE

Right-of-way line.

STRIPPING

Any activity which removes or significantly disturbs the vegetative surface cover of the land, including clearing and grubbing operations.

STRUCTURE

A combination of materials to form a construction for occupancy, use or ornamentation, whether installed on, above or below the surface of a parcel of land.

SUBDIVIDER

Any owner of land commencing proceedings to effect a subdivision of land for himself or for another in accordance with this chapter.

SUBDIVISION

The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land

for sale or development. The term "subdivision" shall also include the term "resubdivision." The following shall not be considered subdivisions, if no new streets are created:

- A. Divisions of property by testamentary or intestate provisions.
- B. Divisions of property upon court order, including but not limited to judgments of foreclosure.
- C. Consolidation of existing lots by deed or other recorded instrument.
- D. The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons, and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map.

SUBDIVISION COMMITTEE

A committee of Planning Board members appointed by the Chairperson of the Board for the purpose of reviewing and clarifying proposed subdivisions in accordance with the provisions in this chapter and performing such other duties relating to land subdivision as may be conferred on this Committee by the Board.

SURFACE WATERS

Temporary or permanent watercourses, water bodies where the waters are exposed to the atmosphere.

TELECOMMUNICATIONS TOWER

Any structure built for the sole or primary purpose of supporting any FCC-licensed or FCC-authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

TOWNHOUSE

A single-family dwelling attached to other similar dwellings by common walls extending from the foundation to the roof, provided with individual front and rear entrances and yards designed as an integral part of each unit, same as "townhouse unit."

USE

The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

VARIANCE

Permission to depart from the literal requirements of this chapter.

WATER BODY

A natural or man-made permanent lake or pond fed by precipitation, surrounding drainage, springs or groundwaters. See also "watercourse" and "surface waters."

WATERCOURSE

Any natural or artificial watercourse, stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, or other waterway in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any adjacent area subject to inundation by reason of overflow or floodwater.

WELLHEAD PROTECTION AREA (WPA)

An area described in plan view around a well, from which groundwater flows to the well and groundwater pollution, if it occurs, may pose a significant threat to the quality of water withdrawn from the well.

WETLANDS

Areas defined as "freshwater wetlands" in the New Jersey Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands have the following environmental characteristics:

- A. Hydric soils, as defined by the United States Soil Conservation Service and the United States Army Corps of Engineers, are present.
- B. The vegetation is dominated by obligate hydrophytic vegetation, as identified by the United States Fish and Wildlife Services and used by the United States Army Corps of Engineers in determining wetlands.
- C. The hydrology is characterized by inundation, either permanently or periodically, at mean water depths of less than 6 1/2 feet, or the soil is saturated to the surface at some time during the growing season of the prevalent vegetation.

WIRELESS TELECOMMUNICATION TRANSMISSION EQUIPMENT

Any antennas, including panel or multimodal antennas, small cell systems (such as exterior or interior "DAS" distributed antenna systems), or dish microwave antennas, that are used in connection with any FCC-licensed or FCC-authorized wireless transmission, and all other equipment associated with and necessary to their operation, including wires, cables, cabinets, and backup power equipment.

WIRELESS TELECOMMUNICATIONS FACILITIES

Facilities for the provision of any FCC-licensed or FCC-authorized wireless transmission or wireless communications services, including, but not limited to, antennas, antenna support structure, telecommunications towers, base stations, and wireless telecommunications equipment.

WIRELESS TELECOMMUNICATIONS TOWER

Any structure built for the sole or primary purpose of supporting FCC-licensed or FCC-authorized wireless transmission equipment.

YARD

An open space which lies between the principal or accessory building or buildings and the nearest lot line, unoccupied and unobstructed from the ground upward except as herein permitted.

ZONING BOARD OF ADJUSTMENT

The same as "Board of Adjustment," the Board established in Article III.

ZONING OFFICER

A person appointed pursuant to §245-2 of this Code to enforce and administer the regulations in this chapter.

ZONING ORDINANCE

A code regulating the use of land in accordance with the New Jersey Municipal Land Use Law.

ZONING PERMIT

A document signed by the Zoning Officer which is required by this code as a condition precedent to the commencement of a use or the demolition, construction, reconstruction, alteration, conversion, or installation of a structure, and which acknowledges that such use, structure or building complies with the provisions of the Zoning Ordinance or an approved variance, or is a legal nonconforming use.

Article II. Planning Board

§ 245-4. Establishment; membership.

There is hereby established, pursuant to N.J.S.A. 40:55D-1 et seq., in the Borough, a Planning Board of nine members and two alternate members consisting of the following classes:

A. Regular members.

- (1) Class I. The Mayor of the Borough.
- (2) Class II. One of the officials of the Borough other than a member of the Council, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.
- (3) Class III. A member of the Council to be appointed by it.
- (4) Class IV. Six other citizens of the Borough to be appointed by the Council. The members of Class IV shall hold no other Borough office, except that one member may be a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there is among the Class IV members of the Planning Board a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be a Class II member of the Planning Board.

B. Alternate members.

- (1) Two alternate members shall be appointed to the Planning Board by the Council. They shall meet all qualifications of Class IV members. At the time of their appointment they shall be designated by the Mayor as "Alternate No. 1" and "Alternate No. 2."
- (2) Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 245-5. Terms of office.

A. Regular members.

- (1) The term of the Class I member shall correspond with his official tenure. The terms of the Class II and Class III members shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who shall also be a member of the Environmental Commission. The term of a Class II or Class IV member who shall also be a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.
- (2) The term of a Class IV member who shall be also a member of the Zoning Board of Adjustment or Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.
- (3) The terms of all Class IV members shall be for four years except as otherwise hereinabove provided.
- (4) All terms shall run from January 1 of the year in which the appointment is made. Any member, other than a Class I member, after a public hearing if he requests one, may be removed by the Council for cause.

B. Alternate members. The terms of the alternate members shall be for two years, except that the terms of

the alternate members shall expire in alternate years.

§ 245-6. Vacancies.

If a vacancy in any class occurs other than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

§ 245-7. Officers.

The Planning Board shall select a Chairperson and Vice Chairperson from the members of Class IV and shall also select a Secretary.

§ 245-8. Attorney.

The Planning Board may annually appoint and, subject to the appropriation of funds, fix the compensation of the Planning Board Attorney, who shall be an attorney other than the Borough Attorney.

§ 245-9. Experts and staff.

The Planning Board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The Board shall not, however, exceed the amount appropriated by the Council for its use.

§ 245-10. Powers and duties generally.

The Planning Board is authorized to adopt bylaws governing its procedural operation. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a Master Plan for the physical development of the Borough, including a specific policy statement respecting its relationship to any areas outside its boundaries which in the Board's judgment bear essentially upon the planning of the Borough, in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of this chapter, in accordance with the provisions of such chapter and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et seq.
- C. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- D. To assemble data on a continuing basis as part of a continuous planning process.
- E. To establish the Official Map, pursuant to an ordinance of the Council, and recommend amendments to the same, pursuant to N.J.S.A. 40:55D-32 and 40:55D-33.
- F. To consider and report to the Council within 35 days of referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26(a), and also pass upon other matters specifically referred to the Planning Board by the Council, pursuant to the provisions of N.J.S.A. 40:55D-26(b).
- G. Variance or direction for issuance of a permit.
 - (1) Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a variance pursuant to N.J.S.A. 40:55D-70(d), § **245-21A(4)** of this chapter, to grant to the same extent and subject to the same restrictions as the Board of Adjustment:
 - (a) Variances pursuant to N.J.S.A. 40:55D-70(c).
 - (b) Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a construction permit for a building or structure in the bed of a mapped street or public drainageway flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
 - (c) Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a construction permit for a building or structure not relating to a street.

- (2) Whenever relief is requested, pursuant to the provisions of this subsection, notice of a hearing on the application for development shall include reference to the request for variance or direction for issuance of a construction permit, as the case may be.
 - (3) The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon the granting of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance.
- H. To perform other advisory duties, such as preparation of capital improvement programs, as may be assigned to it by ordinance or resolution of the Council for the aid and assistance of the Council or other agencies or officers.

§ 245-11. Time limitations for Planning Board action.

- A. Minor subdivisions. Minor subdivision approvals shall be granted or denied within 45 days of the date of submission of a complete application to the Planning Board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire 190 days from the date of Planning Board approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording Officer, the Borough Engineer and the Borough Tax Assessor. Any such plat or deed shall be signed by the Chairperson and Secretary of the Planning Board before it is accepted for filing by the County Recording Officer. The provisions of N.J.S.A. 40:55D-47(f) and (g) shall apply to any minor subdivision approval granted by the Planning Board.
- B. Preliminary approval of major subdivisions. Upon submission of a complete application for a subdivision of 10 or fewer lots, the Planning Board shall grant or deny preliminary approval within 45 days of the date of such submission, or within such further time as may be consented to by the developer. Upon submission of a complete application for a subdivision of more than 10 lots, the Planning Board shall grant or deny preliminary approval within 95 days of the date of such submission, or within such further time as may be consented to by the developer. The provisions of N.J.S.A. 40:55D-49 shall apply to any preliminary major subdivision approval granted by the Planning Board.
- C. Ancillary powers.
 - (1) Whenever the Planning Board is called upon to exercise its ancillary powers before the granting of a variance, as set forth in § **245-10G**, the Planning Board shall grant or deny approval of the application within 120 days after submission by a developer of a complete application to the administrative officer, or within such further time as may be consented to by the applicant.
 - (2) In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variance or direction for issuance of a permit. The period for granting or denying any subsequent approval shall be as otherwise provided in this chapter.
- D. Final approval of major subdivisions. Application for final subdivision approval shall be granted or denied within 45 days of submission of a complete application, or within such further time as may be consented to by the applicant. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat has been duly filed by the developer with the County Recording Officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. The provisions of N.J.S.A. 40:55D-52 and 40:55D-54 shall apply to any final major subdivision approval granted by the Planning Board.

- E. Site plan approval. Minor site plan approval shall be granted or denied within 45 days of the date of the submission of a complete application to the administrative officer. Minor site plan approval shall be deemed to be final approval of the site plan by the Planning Board, subject to any conditions that the Board may impose.
- (1) Upon submission of a complete application for preliminary approval for a major site plan for 10 acres or less, the Planning Board shall grant or deny preliminary approval within 45 days of the date of submission. Upon submission of a complete application for preliminary approval for a major site plan for more than 10 acres, the Planning Board shall grant or deny preliminary approval within 95 days of submission. Following preliminary approval, final approval of a major site plan shall be granted or denied within 45 days of submission of a complete application for final approval.
 - (2) The time for Board decision may be extended by consent of the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the plan.
 - (3) All necessary permits and approvals shall be obtained before a construction permit may be issued and before construction may commence.
 - (4) The provisions of N.J.S.A. 40:55D-49 shall apply to any preliminary major site plan approval granted by the Planning Board. The provisions of N.J.S.A. 40:55D-52 shall apply to any final major site plan approval granted by the Planning Board. The provisions of N.J.S.A. 40:55D-46.1(c) shall apply to any minor site plan approval granted by the Planning Board. Construction permits shall expire in accordance with the applicable provisions of the Uniform Construction Code.
- F. Failure of Planning Board to act. Failure of the Planning Board to act within the period set forth in Subsections **A** through **E**, whichever is appropriate, shall constitute the approval applied for, and a certificate by the administrative officer as to the failure of the Planning Board to act shall be issued upon request of the applicant, and it shall be sufficient in lieu of written endorsement or other evidence of approval.
- G. Completeness of applications. An application for development shall be complete for purposes of commencing the applicable time period for action by the Planning Board when so certified by the Planning Board or its authorized designee.
- (1) In the event that the Planning Board or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five-day period for purposes of commencing the applicable time period unless:
 - (a) The application lacks information in the form and substance required by the checklist set forth in this chapter for the particular type of application, which list of requirements and forms shall be provided to the applicant; and
 - (b) The Planning Board or its designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
 - (2) The applicant may request that one or more of the submission requirements be waived, in which event the Planning Board shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that (s)he is entitled to approval of the application. The Planning Board may subsequently require correction of any information found to be in error and submission of additional information not specified in the chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Planning Board.

§ 245-12. Environmental Commission.

The Planning Board shall make available to the Environmental Commission an informational copy of every

application for development submitted to the Planning Board. Failure of the Planning Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

§ 245-13. Rules and regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953, N.J.S.A. 2A:67A-1 et seq., shall apply.

§ 245-14. Lack of quorum.

If the Planning Board lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to the member's personal or financial interests therein, the provisions of N.J.S.A. 40:55D-23.2 shall apply.

Article III. Zoning Board of Adjustment

§ 245-15. Establishment; membership.

- A. A Zoning Board of Adjustment is hereby established which shall consist of seven regular members and two alternate members. All members shall be residents of the Borough and shall be appointed by the Council.
- B. Alternate members shall be designated at the time of appointment by the Council as "Alternate No. 1" and "Alternate No. 2."
- C. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 245-16. Terms of office.

- A. Regular members. The term of each regular member shall be four years. The terms of the members first appointed under this chapter shall be so determined that, to the greatest extent practicable, the expiration of such terms shall be distributed evenly over the first four years after their appointment, provided that the initial term shall not exceed four years.
- B. Alternate members. The term of each alternate member shall be two years, except that the terms of the alternate members shall expire in alternate years.

§ 245-17. Vacancies.

If a vacancy occurs other than by expiration of a term, it shall be filled by appointment as above provided for the unexpired term.

§ 245-18. Officers.

The Zoning Board of Adjustment shall elect a Chairperson and Vice Chairperson from among its members and shall also select a Secretary.

§ 245-19. Attorney.

The Zoning Board of Adjustment may annually appoint and, subject to the appropriation of funds, fix the compensation of the Zoning Board of Adjustment Attorney, who shall be an attorney other than the Borough Attorney.

§ 245-20. Experts and staff.

The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which

exceed the amount appropriated by the Council for its use.

§ 245-21. Powers and duties generally.

A. The Zoning Board of Adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning ordinance.
- (2) To hear and decide requests for interpretation of the Zoning Map or zoning ordinance, or for decisions upon special questions upon which such Board is authorized by the zoning ordinance to pass.
- (3) Variance from zoning requirements.
 - (a) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to Articles IX, X, XI, XII, XIV, and XV of this Chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, to grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship.
 - (b) Where, in an application or appeal relating to a specific piece of property, the purpose of N.J.S.A. 40:55D-1 et seq., the New Jersey Municipal Land Use Law, would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, to grant a variance to allow departure from regulations pursuant to Articles IX, X, XI, XII, XIV, and XV of this Chapter; provided, however, that no variance from those departures enumerated in Subsection **A(4)** of this section shall be granted under this subsection, and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to § **245-10G** of this chapter.
- (4) Variance in particular cases.
 - (a) In particular cases and for special reasons, to grant a variance to allow departure from regulations, pursuant to this chapter, to permit:
 - [1] A use or principal structure in a district restricted against such use or principal structure.
 - [2] An expansion of a nonconforming use.
 - [3] Deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67, pertaining solely to a conditional use.
 - [4] An increase in the permitted floor area ratio, as defined in N.J.S.A. 40:55D-4.
 - [5] An increase in the permitted density, as defined in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one- or two-dwelling-unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
 - [6] A height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.
 - (b) A variance under this Subsection **A(4)** shall be granted only by affirmative vote of at least five members.

- (5) To direct issuance of a permit, pursuant to N.J.S.A. 40:55D-34, for a building or structure in the bed of a mapped street or public drainageway, flood-control basin or public area reserved on the Official Map.
 - (6) To direct issuance of a permit, pursuant to N.J.S.A. 40:55D-35 and 40:55D-36, for a building or structure not related to a street.
 - (7) To grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval, pursuant to N.J.S.A. 40:55D-37 through 40:55D-59, or conditional use approval, pursuant to N.J.S.A. 40:55D-67, whenever the Board is reviewing an application for approval of a use variance, pursuant to Subsection **A(4)** of this section.
- B. No variance or other relief may be granted under the provisions of Subsection **A(1)** through **(4)** of this section unless such variance or other relief can be granted without substantial detriment to the public good and shall not substantially impair the intent and purpose of the zone plan and zoning ordinance.
- C. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and the zoning ordinance. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., for the approval in question, and the special vote, pursuant to Subsection **A(4)**, shall not be required. Any application under any provision of this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

§ 245-22. Appeals and applications.

- A. Appeals to the Zoning Board of Adjustment may be taken by any interested party. Each appeal shall be taken within the 20 days prescribed by N.J.S.A. 40:55D-72(a) by filing a notice of appeal with the officer from whom the appeal was taken, together with three copies of such notice with the Secretary of the Zoning Board of Adjustment. Such notice of appeal shall specify the grounds of the appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Application addressed to the original jurisdiction of the Zoning Board of Adjustment, without prior application to an administrative officer or the Planning Board, shall be filed with the Secretary of the Zoning Board of Adjustment. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps, or other papers required by virtue of any provision of this chapter or any rule of the Zoning Board of Adjustment.
- C. An appeal to the Board shall stay all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Zoning Board of Adjustment after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.
- D. An appeal or application to the Zoning Board of Adjustment shall be complete for purposes of commencing the applicable time period for action by the Board when so certified by the Board or its authorized designee. In the event that the Board or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon expiration of the forty-five-day period for purposes of commencing the applicable time period unless:
- (1) The application lacks information in the form and substance required by the checklist set forth in

this chapter for the particular type of application, which list of requirements and forms shall be provided to the applicant; and

- (2) The Zoning Board of Adjustment, or its designee, has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the Zoning Board of Adjustment shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that (s)he is entitled to approval of the application. The Zoning Board of Adjustment may subsequently require correction of any information found to be in error and submission of additional information not specified in the chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Zoning Board of Adjustment.

§ 245-23. Reversal or modification on appeal.

The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from, and make such other requirement, decision or determination as ought to be made, and to that end have all powers of the officer from whom the appeal was taken.

§ 245-24. Time for decision.

The Zoning Board of Adjustment shall render its decision no later than 120 days after the date an appeal is taken from the decision of an administrative official, or the submission of a complete application for development to the Board, pursuant to the provisions of N.J.S.A. 40:55D-70(b). In the event that the developer elects to submit separate consecutive applications in accordance with the provisions of § 245-21C, the aforesaid provisions shall apply to the application for approval of the variance. The period for granting or denying any subsequent approval shall be as otherwise provided in this chapter. Failure of the Zoning Board of Adjustment to act within the period prescribed shall constitute approval of the application.

§ 245-25. Rules and regulations.

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this article. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953, N.J.S.A. 2A:67A-1 et seq., shall apply.

§ 245-26. Lack of quorum.

If the Zoning Board of Adjustment lacks a quorum because any of its regular or alternate members is prohibited from acting on a matter due to the member's personal or financial interest therein, the provisions of N.J.S.A. 40:55D-69.1 shall apply.

§ 245-27. Report.

The Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Zoning Board of Adjustment shall send copies of the report and resolution to the governing body and Planning Board.

Article IV. Provisions Applicable to Both the Planning Board and Zoning Board of Adjustment

§ 245-28. Completeness checklists.

In determining the completeness of applications, the Borough approving authority shall utilize the following completeness checklists which shall be available from the administrative officer and are hereby adopted:

- A. Variance Application Checklist
- B. Subdivision Checklist (Preliminary/Final/Minor)
- C. Site Plan Checklist (Preliminary/Final/Minor)

§ 245-29. Conflicts of interest.

No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

§ 245-30. Meetings.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less often than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the Chairperson or at the request of any two Board members. Such meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of the members present except as otherwise required by any provision of N.J.S.A. 40:55D-70d.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq. To the extent permitted by the Open Public Meetings Law, and in accordance with the provisions of N.J.S.A. 40:55D-9, an executive session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a regular or special meeting, and no actions requiring a vote shall be taken.

§ 245-31. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the administrative officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

§ 245-32. Fees.

Fees for applications or for the rendering of any service by the Planning Board or Zoning Board of Adjustment or any member of its administrative staff which are not otherwise provided by ordinance may be provided for and adopted as part of the rules of the Board, and copies of such rules or of the separate fee schedule shall be available to the public. Fees shall be as set forth in § 111-3G and H.

§ 245-33. Additional refundable escrow fees and court reporter costs.

- A. Upon filing any application for development with the Planning Board or Zoning Board of Adjustment, an applicant shall post escrow fees with the reviewing Board for those applications, and in the amounts, specified in § 111-3G and/or H of this Code. The provisions of N.J.S.A. 40:55D-53.2 and 40:55D-53.2a shall apply to all escrow fees posted with the Planning Board pursuant to § 111-3G and to all escrow fees posted with the Zoning Board of Adjustment pursuant to § 111-3H.
- B. Separate from any requirement for additional refundable escrow fees, if either the applicant or the Board desires a stenographic transcript of hearings or other meetings related to any application, the costs of appearance, taking down the testimony or discussion, transcribing it and providing a copy of the transcript to the Board shall be at the expense of the applicant, who shall also arrange for the attendance of a certified shorthand reporter.

§ 245-34. Public hearings.

- A. Rules. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.
- B. Oaths. The officer presiding at the hearing or such person as (s)he may designate shall have power to administer the oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, N.J.S.A. 2A:67A-1 et seq., shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each Board shall provide for the verbatim recording of the proceedings by either stenographer or by mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his/her expense.

§ 245-35. Notice requirement for hearing.

Public notice of a hearing on all applications for development shall be given, except for minor site plans, minor subdivisions and final approval of major site plans and major subdivisions. Public notice shall be given in the event relief is requested, pursuant to N.J.S.A. 40:55D-60, 40:55D-70 or 40:55D-76 as part of an application for development otherwise excepted herein from public notice.

- A. Whenever a hearing shall be required on an application for development, pursuant to N.J.S.A. 40:55D-1 et seq., the applicant shall give notice thereof as follows:
 - (1) By publication in the official newspaper of the Borough;
 - (2) By serving a copy thereof on the owner as shown on the current tax duplicate or his/her agent in charge of the property; or
 - (3) By mailing a copy thereof by certified mail to the property owner at his/her address as shown on the current tax duplicate. A return receipt shall not be required. Notice shall be deemed complete upon mailing.
- B. Notice shall be given to the owners of all real property, as shown on the current tax duplicate, located within 200 feet in all directions of the property which is the subject of such hearing, and whether located within or without the municipality in which applicant's land is located. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime,

community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

- C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given to the clerk of the municipality, which notice shall be in addition to the notice required to be given, pursuant to Subsection **B** of this section, to the owners of lands in such adjoining municipality which are located within 200 feet of the subject premises.
- D. Notice shall be given to the County Planning Board of a hearing on application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within 200 feet of a municipal boundary.
- E. Notice shall be given to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Borough Clerk pursuant to N.J.S.A. 40:55D-10.
- G. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this chapter and requiring public notice pursuant to this section shall be given, in the case of a public utility, cable television company, or local utility which possesses a right-of-way or easement within the Borough of Mountain Lakes and which has registered with the Borough in accordance with N.J.S.A. 40:55D-12.1, by serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company, or local utility, or mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.
- H. All notices hereinabove specified in this section shall be given at least 10 days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Board holding the hearing on the application for development.
- I. All notices required to be given pursuant to the terms in this section shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Borough Tax Assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.

§ 245-36. List of property owners furnished.

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the administrative officer shall, within seven days of receipt of a request therefor and upon receipt of payment of a fee as specified in § 111-3G and H, provide a list certified by the Tax Assessor from the current tax duplicate of names and addresses of owners in the Borough to whom the applicant is required to give notice, pursuant to § **245-35B**. In addition, the administrative officer shall include on the list the names, addresses, and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to § **245-37**.

§ 245-37. Registration by public utilities, cable television companies and local utilities to receive notice of applications.

- A. Every public utility, cable television company, and local utility interested in receiving notice pursuant to § **245-35G** may register with the Borough to receive notice. This registration shall remain in effect until revoked by the public utility, cable television company, or local utility, or by its successor in interest.
- B. The administrative officer shall adopt a registration form and shall maintain a record of all public utilities, cable television companies, and local utilities which have registered pursuant to Subsection **A** of this

section. The registration form shall include the name of the public utility, cable television company, or local utility, and the name, address, and position of the person to whom notice shall be forwarded. The information contained therein shall be made available to any applicant, as provided for in § 245-36.

- C. Any public utility, cable television company, or local utility which registers to receive notice pursuant to Subsection **A** of this section shall pay to the Borough a registration fee as set forth at § 111-3G(6).
- D. The administrative officer shall notify the corporate secretary of every local utility that, in order to receive notice by an applicant pursuant to § **245-35G**, the utility must register with the Borough or any other municipality in which the utility has a right-of-way or easement.

§ 245-38. Decisions.

- A. Findings of fact and conclusions. The Board shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. Failure of a motion to receive the number of votes required to approve an application for development pursuant to the exceptional vote requirements of N.J.S.A. 40:55D-34 or § **245-21A(4)** of this chapter shall be deemed an action denying the application. The Board shall provide the findings and conclusions through:
 - (1) A resolution adopted at a meeting held within the time period provided in the Act for action by the Board on the application for development; or
 - (2) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the Board voted to grant or deny approval. Only the members of the Board who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9, resulting from the failure of a motion to approve an application, shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the Board and not to be an action of the Board. However, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by N.J.S.A. 40:55D-10(h) and (i).
- B. Conditional decisions; County Planning Board approval. Where required by law, see N.J.S.A. 40:27-6.6, the application shall be submitted to the Morris County Planning Board for review or approval, and in such cases the Borough Planning Board and Zoning Board of Adjustment shall condition any approval that each grants upon timely receipt of a favorable report from the County Planning Board or upon the County Planning Board's failure to report within the required time period. Decisions may all be conditioned on approval by other governmental agencies.
- C. Mailing. A copy of the decision shall be mailed by the Board within 10 days of the date of decision to the applicant or, if represented, then to his/her attorney without separate charge. A copy of the decision shall also be mailed to all persons who request it and who have paid the prescribed fee. A copy of the decision shall also be filed in the office of the administrative officer, who shall make a copy of such filed decision available for public inspection during his/her office hours and a copy available to any interested party upon payment of a fee calculated in the same manner as those established for copies of the other public documents in the Borough.
- D. Publication. A brief notice of every final decision shall be published in the official newspaper of the Borough. Such publication shall be arranged by the Secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, for a reasonable charge. The applicant may also arrange for such publication. Notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

§ 245-39. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and 40:55D-65, every application for development

submitted to the Planning Board or Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application, or, if it is shown that taxes or assessments are delinquent on the property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments or the making of adequate provision for the payment thereof in such manner that the Borough shall be adequately protected.

§ 245-40. Pending applications.

All applications for development filed prior to the effective date of this chapter may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of § 245-22 of this chapter.

§ 245-41. Copy of chapter to be filed with County Planning Board.

Immediately upon adoption of this chapter the Borough Clerk shall file a copy with the County Planning Board as required by law. The Borough Clerk shall also file with the County Planning Board copies of all other future Borough land use ordinances.

§ 245-42. Expiration of variance.

Any variance hereafter granted by the Zoning Board of Adjustment or the Planning Board permitting the erection or alteration of any structure(s) or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by the variance, or unless such permitted use has actually been commenced, within 18 months from the date memorializing the resolution by the Zoning Board of Adjustment or Planning Board, except that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Zoning Board of Adjustment or Planning Board to the Council or to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding. Any variance may be extended for up to an additional 18 months by written request to the Zoning Board of Adjustment or Planning Board based on whichever granted the original variance relief. The written request shall provide the reasoning for the variance extension and the requested time period for the extension. The respective Board shall review the request and determine if an extension is warranted given the specific circumstances and considerations of the variance in question.

Article V. Plans, Maps and Programs

§ 245-43. Master Plan.

The Planning Board may prepare and, after public hearing, adopt or amend a Master Plan, or component parts thereof, to guide the use of lands within the Borough in a manner which protects the public health and safety and promotes the general welfare.

A. The Master Plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams, and text, presenting at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (13), all as more particularly described in N.J.S.A. 40:55D-28:

- (1) A statement of objectives, principles, assumptions, policies and standards.
- (2) A land use plan element.
 - (a) Taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (17) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands;
 - (b) Showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, open space, educational and other public and private purposes or combination of purposes including any provisions for cluster development; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance;
 - (c) Showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et al.);
 - (d) Including a statement of the standards of population density and development intensity recommended for the municipality;
 - (e) Showing the existing and proposed location of military facilities and incorporating strategies to minimize undue encroachment upon, and conflicts with, military facilities, including but not limited to: limiting heights of buildings and structures nearby flight paths or sight lines of aircraft; buffering residential areas from noise associated with a military facility; and allowing for the potential expansion of military facilities;
 - (f) Including, for any land use plan element adopted after the effective date of P.L.2017, c.275, a statement of strategy concerning:
 - [1] Smart growth which, in part, shall consider potential locations for the installation of electric vehicle charging stations,
 - [2] Storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and
 - [3] Environmental sustainability;
 - (g) Showing the existing and proposed location of public electric vehicle charging infrastructure; and
 - (h) Including, for any land use plan element adopted after the effective date of P.L.2021, c.6, a climate change-related hazard vulnerability assessment which shall (i) analyze current and future threats to, and vulnerabilities of, the municipality associated with climate change-related natural hazards, including, but not limited to increased temperatures, drought, flooding, hurricanes, and sea-level rise; (ii) include a build-out analysis of future residential, commercial, industrial, and other development in the municipality, and an

assessment of the threats and vulnerabilities identified in subsubparagraph (i) of this subparagraph related to that development; (iii) identify critical facilities, utilities, roadways, and other infrastructure that is necessary for evacuation purposes and for sustaining quality of life during a natural disaster, to be maintained at all times in an operational state; (iv) analyze the potential impact of natural hazards on relevant components and elements of the master plan; (v) provide strategies and design standards that may be implemented to reduce or avoid risks associated with natural hazards; (vi) include a specific policy statement on the consistency, coordination, and integration of the climate-change related hazard vulnerability assessment with any existing or proposed natural hazard mitigation plan, floodplain management plan, comprehensive emergency management plan, emergency response plan, post-disaster recovery plan, or capital improvement plan; and (vii) rely on the most recent natural hazard projections and best available science provided by the New Jersey Department of Environmental Protection.

- (3) A housing plan element.
 - (4) A circulation plan element.
 - (5) A utilities service plan element.
 - (6) A community facilities plan element.
 - (7) A recreation plan element.
 - (8) A conservation plan element.
 - (9) An economic plan element.
 - (10) An historic preservation plan element.
 - (11) Appendices or separate reports containing the technical foundation for the Master Plan and its constituent elements.
 - (12) A recycling plan element.
 - (13) A green buildings and environmental sustainability plan element, which shall provide for, encourage, and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider, encourage and promote the development of public electric vehicle charging infrastructure in locations appropriate for their development, including but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops; consider the impact of buildings on the local, regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on-site; and optimize climatic conditions through site orientation and design; and
 - (14) A specific policy statement indicating the relationship of the proposed development of the Borough as developed in the Master Plan to master plans for contiguous municipalities, the county, and any other comprehensive guide plans, pursuant to N.J.S.A. 40:55D-28(d).
- B. The Planning Board shall give public notice of a hearing on adoption, revision or amendment of the Master Plan as required in the Municipal Land Use Law, N.J.S.A. 40:55D-11 and 40:55D-13.
 - C. The Borough Council shall, at least every ten (10) years, provide for a general reexamination of its Master Plan and development regulations by the Planning Board, which shall prepare a report on the findings of such reexamination. This periodic examination is regulated by the Municipal Land Use Law, N.J.S.A. 40:55D-89.

§ 245-44. Official Map.

The Borough Council may, by ordinance, adopt or amend an Official Map of the Borough, which shall reflect the appropriate provisions of the Borough Master Plan, Municipal Land Use Law, N.J.S.A. 40:55D-32 through D-36. The Official Map shall be referred to the Planning Board prior to the hearing on the adoption of the

Official Map or any amendment thereto. The Official Map shall be deemed conclusive with respect to the location and width of streets and public drainageways and the location and extent of flood-control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence.

§ 245-45. Capital improvement program.

The Borough Council may authorize the Planning Board to prepare a program of municipal capital improvement projects projected over a term of at least six years, and amendments thereto, updated on an annual basis. Such program may encompass major projects being currently undertaken, or future projects to be undertaken, with federal, state, county, Borough or other public funds. The program shall take into account public facility needs indicated by the prospective development shown in the Master Plan and shall classify projects in regard to the urgency and need for realization. The Borough Council may adopt such program. (Municipal Land Use Law, N.J.S.A. 40:55D-29 through 40:55D-31).

Article VI. Historic Preservation

§ 245-46. Intended purposes and objectives.

The intention of this article is to effectuate and encourage the protection, enhancement and perpetuation of historic structures and historic landscapes within the Borough, to implement the historic preservation element of the Master Plan, and to advance the following public purposes:

- A. To foster civic pride in the history and architecture of Mountain Lakes and promote the heritage and community identity of Mountain Lakes;
- B. To promote appreciation of historic resources for the education, pleasure and welfare of the local population;
- C. To encourage beautification and private reinvestment in historic resources and surrounding properties;
- D. To discourage the unnecessary demolition of historic resources;
- E. To encourage the proper maintenance and preservation of historic resources.

§ 245-47. Historic Preservation Committee.

- A. Establishment. There is hereby established within the Borough a Historic Preservation Committee, hereinafter referred to as the "Committee," whose members shall serve without compensation.
- B. Responsibilities. The Committee shall have the responsibility to:
 - (1) Prepare a survey of historic sites of the Borough pursuant to criteria identified in the survey report;
 - (2) Make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements and to the Council for the adoption of historic preservation provisions, standards and criteria in this chapter;
 - (3) Advise the Council on any features of the annual capital budget that have historic preservation implications;
 - (4) Advise the Planning Board and Zoning Board of Adjustment on applications for development;
 - (5) Provide guidance to the Zoning Board of Adjustment or Planning Board, as applicable, when applicants seek clarification concerning applicability and eligibility under the bulk incentives set forth in this article and on appeals from any decision to deny eligibility for the bulk incentives.
 - (6) Advise and assist applicants for construction permits, if requested by said applicants, in advance of a formal application concerning applicability and eligibility under the bulk incentives set forth in this article.
 - (7) Carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough.
 - (8) Evaluate historic sites included in the community-wide survey against the criteria for the New Jersey Register of Historic Places and the National Register of Historic Places and prepare nominations for consideration of the State Historical Preservation Officer.
- C. Membership. The Committee shall consist of seven members and two alternates who shall be appointed by the Borough Council.
- D. Qualifications. Members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or a related discipline, to the extent that such professionals are available in the Borough. Committee membership shall include other persons who have demonstrated special interest, knowledge or experience in building design and construction,

history, architecture or a related discipline. Members may reside outside of the Borough, except that no more than two members of the Committee shall be nonresidents. Alternate members shall meet the qualifications of regular voting members and shall be designated as Alternate No. 1 and Alternate No. 2 at the time of appointment.

- E. Terms. The initial terms of office of the first regular Committee members shall be for one, two, three or four years, to be designated by the Borough Council in making such appointments in the following manner: one member shall be appointed for one year, two members shall be appointed for two years, two members shall be appointed for three years and two members shall be appointed for four years. The initial terms of office for the first alternate members of the Committee shall be for one year and two years, respectively. The term of each member shall expire on December 31 of the last year of each member's term. All members of the initial Committee shall be appointed within 90 days of the final passage of this article. The terms of appointment of succeeding Committee members shall be for four years each for regular voting members and two years each for alternate members, to expire on December 31 of the last year of such succeeding member's term. Notwithstanding any other provision herein, the term of any member common to the Committee and the Planning Board or the Zoning Board of Adjustment shall be for that person's term of membership on the Planning Board or Zoning Board of Adjustment.
- F. Organization. At its annual organization meeting, the Committee shall elect from its membership a Chairperson to serve as presiding officer of the Committee. The Committee shall also elect a Vice Chairperson from its membership and select a Secretary who may or may not be a member of the Committee. In lieu of a Chairperson and Vice Chairperson, the Committee may elect from its membership two Cochairpersons to serve as presiding officers of the Committee on a shared basis.
- G. Training. A majority of Committee members shall attend a conference or training session in historic preservation or a related field. Failure to obtain adequate training may result in removal from the Committee.
- H. Vacancies. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only, and the appointment shall be made by the Borough Council.
- I. Removal. A member of the Committee may be removed by the Borough Council for cause; provided, however, that such member shall be entitled to a public hearing if he or she requests it.
- J. Records and procedures. The Committee shall keep minutes and records of all meetings and proceedings, including but not limited to voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be matters of public record. All meetings shall comply with the Open Public Meetings Act, N.J.S.A. 10:4-7 et seq. The Committee shall adopt such other procedural rules for the conduct of its business as it deems necessary and advisable. No Committee member shall vote or participate in any meeting concerning any matter in which he or she has a direct or indirect personal interest, monetary or otherwise.
- K. Quorum. A quorum for the transaction of business shall be four regular and/or alternate members.

§ 245-48. Designation of historic landmarks and historic districts.

The Committee shall maintain a comprehensive historic survey of the Borough to identify historic resources. The initial survey shall be the survey conducted in conjunction with, and included in, the nomination of the Mountain Lakes Historic District for listing on the New Jersey Register of Historic Places and the National Register of Historic Places in 2005.

§ 245-49. Establishment of bulk incentives for contributing dwellings.

In order to provide an incentive for the preservation of contributing dwellings within historic districts, properties containing contributing dwellings and meeting the eligibility requirements of § 245-88 are eligible for the enhanced bulk requirements set forth at § 245-88, subject to the application review, documentation, and approval procedures set forth in that section.

§ 245-50. Demolitions and relocations.

A. Demolition of a contributing dwelling.

- (1) For any application for a demolition permit for a contributing dwelling, the Construction Official shall issue a demolition permit provided that all of the following requirements have been fully met:
 - (a) Demolition notice.
 - [1] The applicant shall cause to be delivered to the Committee a notice setting forth the following:
 - [a] The applicant's intent to demolish, including a description of the subject property (by block and lot as well as by physical location) and a description of the contributing dwelling to be demolished; and
 - [b] The anticipated time frame(s) associated with the demolition.
 - [2] The notice shall include proof of payment of a nonrefundable fee of \$500 to the Borough of Mountain Lakes. This fee shall cover the costs incurred by the Committee and the Borough for review under this article. The notice shall be delivered to the Committee either in person at the Borough Hall or by certified mail.
 - (b) Notice period. The "notice period" shall commence on the date the notice is delivered to the Committee and shall run for a period of time of 90 days.
 - (c) Documentation. During the notice period, the applicant shall, on not less than 10 days' prior notice from the Committee, 1) provide access for a period of four hours during the notice period to all interior and exterior areas of the contributing dwelling proposed for demolition to permit documentation of the contributing dwelling, or 2) provide documentation of the contributing dwelling to the Committee in accordance with guidelines established by the Committee. Such documentation may include photographs, floor plans, measured drawings, an archeological survey, and any other comparable form of documentation stipulated by the Committee. Where the applicant elects to provide documentation of the contributing dwelling to the Committee pursuant to **§ 245-50A(1)(c)[2]**, the Committee shall send a letter to the applicant either confirming that the applicant has complied with the requirements of this **§ 245-50A(1)(c)** or notifying the applicant of any deficiencies in the applicant's submission. If the Committee does not send a letter to the applicant within 60 days of the submission, of the applicant's documentation, the applicant shall be deemed to have complied with the requirements of this **§ 245-50A(1)(c)**.
 - (d) Confirmation of compliance. At the conclusion of the notice period, if the applicant still wishes to demolish the subject contributing dwelling, the applicant shall perform the following:
 - [1] File an application for a demolition permit with the Construction Official; and
 - [2] Provide the Construction Official with an affidavit of delivery relating to the notice to the Committee including a copy of the notice and proof of delivery in person at the Borough Hall or mailing by certified mail; and
 - [3] Provide the Construction Official with a copy of a letter from the Committee confirming that the applicant has complied in all respects with its obligations pursuant to **§ 245-50A(1)(c)**.
- (2) Permit fee. The fee for an application for a demolition permit for a contributing dwelling set forth in Chapter 111 shall be increased by a defined amount over the otherwise applicable fee for noncontributing dwellings, which amount shall initially be \$500 as of the bulk incentives effective date and shall thereafter be adjusted from time to time. This increased fee shall be in addition to the nonrefundable fee paid pursuant to **§ 245-50A(1)(a)[2]**.
- (3) Assignment. No assignment of the rights granted by a demolition permit to demolish shall be permitted.

- (4) Expiration of approval. In cases where demolition is permitted, the demolition permit shall be valid for one year from the date of expiration of the notice period. The one-year period shall not be extended.

B. Applicability of bulk incentives.

- (1) Relocations. A contributing dwelling will not be ineligible for the bulk incentives set forth at § **245-88** solely because it has been relocated from its original site to another location within the boundaries of the historic district.
- (2) Replacement Dwellings. The bulk incentives set forth at § **245-88** will not be available for a building which replaces a demolished or relocated contributing dwelling.

§ 245-51. General.

- A. Other requirements unaffected. The requirements of this article shall be considered to be in addition to and in no case shall they be interpreted as a substitute for any other approval, permit or other action as otherwise provided for.
- B. Powers of other boards and committees. No duties or powers of the Committee shall supersede or infringe on the powers of other Borough boards and committees.

Article VII. Permits and Certificates

§ 245-52. Zoning permits required.

- A. A zoning permit issued by the Zoning Officer shall be required for the following activities and it shall be a violation of this chapter to engage in the following activities without first obtaining a zoning permit:
 - (1) No person shall commence the construction, reconstruction, demolition, alteration, conversion or installation of a structure without first obtaining a zoning permit.
 - (2) No person shall commence a use nor change an existing use of property without first obtaining a zoning permit.
 - (3) Prior to the issuance of a building permit, a zoning permit certifying that the request conforms with the provisions of this chapter shall be issued.
- B. A person desiring to obtain an official acknowledgement that an existing building, lot or use meets the requirements of the current Borough Zoning Ordinance may do so by obtaining a zoning permit. No other form of acknowledgement of zoning conformance shall be recognized by the Borough.
- C. The Zoning Officer shall issue a zoning permit where it is determined that at least one of the following conditions has been met:
 - (1) The use is permitted as a permitted use in the proposed location and the structure and lot meet all the requirements of this chapter; or
 - (2) It is clearly established that the use exists as a nonconforming use and/or nonconforming structure; or
 - (3) The use is permitted by the terms of a variance and the structure and lot meet all the conditions of the variance or all the requirements of this chapter.
- D. The Zoning Officer shall have the authority to promulgate any checklists, application forms and/or registrations necessary for the administration of this section, including the submission and review of any business or other registration forms if required by Borough Ordinance.
- E. Appeal. The granting or denial of a zoning permit may be appealed to the Zoning Board of Adjustment by any interested party pursuant to N.J.S.A. 40:55D-70a.

§ 245-53. Building permit, certificate of occupancy required

- A. Permit required. No building, structure or part thereof shall be erected, raised, moved, extended, enlarged, altered or demolished until a permit has been granted by the Construction Official. A construction permit shall be conditional until a foundation survey is made at the time the foundation is in place. At such time, the applicant shall submit an accurate foundation survey to the Construction Official for his review for compliance with the zoning regulations. This survey shall be sealed by a licensed surveyor and shall show the external dimensions of the foundation, the distances from its property lines and the elevation of the top of the foundation. Following his approval of the foundation survey, the Construction Official shall validate the permit for the completion of the building. A waiver of the requirement for a survey may be granted where the Construction Official is satisfied that the completed foundation meets the setback requirement.
- B. Certificate of occupancy. No land or structure shall be occupied or used in whole or in part for any purpose until a certificate of occupancy shall have been issued by the Construction Official stating that the use and building therein specified, or either of them as the case may be, complies with all the provisions of these chapters. A new certificate of occupancy shall be required for a change of use of land or structure. A "change of use" shall mean a change from one specific use of land or structure as identified in this chapter to another such use. See also § 245-65, Site Plan Review and Approval.

Article VIII. Subdivision of Land and Site Plan Review

§ 245-54. Purpose; approving agency; administration.

- A. The purpose of this Article shall be to provide rules, regulations and standards to guide land subdivision and site development in the Borough.
- B. The provisions of this article shall be administered by the Borough Planning Board in accordance with N.J.S.A. 40:55D-37 et seq. or the Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-76.
- C. Any action taken by the Planning Board under this article shall give primary consideration to the health, safety and welfare of the citizens of the Borough. However, if the applicant can clearly demonstrate that because of conditions pertaining to the premises the literal application of one or more of these rules, regulations and standards is impracticable or will exact undue hardship, the Planning Board may permit such change or changes therefrom as may be reasonable and within the general purpose and intent of the rules, regulations and standards.
- D. The provisions of this article shall govern the submission and processing of applications for subdivision and site plan approval.

§ 245-55. Applications; procedure for filing.

- A. Applications for development within the jurisdiction of the Planning Board, pursuant to the provisions of N.J.S.A. 40:55D-1 et seq., shall be filed with the administrative officer. The applicant shall file at least 15 business days before the date of the monthly meeting of the Board the number of required copies determined by the Planning Board Administrator of a sketch plat or concept plan if required, of the application for minor subdivision approval, plans for major subdivision approval, site plan review, conditional use approval, informal review or planned development. At the time of filing the application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps and other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the administrative officer of the Board who shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.
- B. Separate and complete applications shall be submitted for preliminary and final plans. A change in a duly approved subdivision or site plan shall require approval of the Planning Board or Zoning Board of Adjustment.

§ 245-56. Environmental impact statement

Each applicant, as part of submission to the Planning Board or Zoning Board of an application for approval of a major subdivision or site plan, shall an environmental impact statement relative to the proposed project, prepared in accordance with Article II of Chapter 102 of the Borough Code.

§ 245-57. Subdivision review and approval.

The review and approval of subdivision applications shall be governed by this chapter.

- A. Informal review. At the request of the developer, the Planning Board shall grant an informal review of a concept plan for development for which the developer intends to prepare and submit an application for development. The developer shall not be required to submit an application fee for such an informal review but will be required to establish an escrow account to cover the cost for professional services. The developer shall not be bound by such a review. The informal review presentation shall be limited to 30 minutes.
- B. Preliminary subdivision review and approval.
 - (1) An application for preliminary subdivision review and approval shall meet requirements of this chapter. The Planning Board may submit copies of the application to other governmental bodies and to consultants for review and reports.

- (2) Prior to issuance of preliminary subdivision approval, the Planning Board shall review the plans and reports and ascertain compliance with the provisions of this chapter, including, but not limited to, environmental impact statement, soil erosion and sedimentation control plan, surface water management plan and Wellhead Protection Area.
- (3) All necessary permits and approvals shall be obtained before a construction permit may be issued and before construction may commence.

C. Final subdivision plat review and approval.

- (1) Before consideration by the Planning Board of a final subdivision plat, the subdivider shall have installed the improvements required by the Planning Board under § 245-62 or the Planning Board shall require the posting of adequate performance guaranties and subsequent maintenance guaranties as required in § 245-62B.
- (2) The final plat shall have incorporated therein all changes or modifications required by the Planning Board with respect to the preliminary plat.
- (3) The final plat shall be accompanied by:
 - (a) A certification from the Borough Engineer stating that all improvements required by the Planning Board on preliminary approval have been installed in compliance with all applicable laws and to the satisfaction of the Engineer and, if required by the Planning Board, a certification from the Borough Clerk stating that a satisfactory maintenance bond has been filed; or
 - (b) A certification from the Borough Clerk stating:
 - [1] That a developer's agreement with the Borough has been executed providing such reasonable conditions as the Borough Council finds necessary to assure that the required improvements shall be properly executed and shall function so as not to create any nuisance or condition adverse to the public interest; and
 - [2] That a satisfactory performance guarantee has been filed.
 - (c) A certification from the Borough Engineer stating that the final plat has incorporated therein all changes or modifications required by the Planning Board in respect to the preliminary plat.
- (4) Upon final approval, copies of the final plat shall be filed by the Planning Board with the:
 - (a) Administrative officer of the Planning Board.
 - (b) Construction Official.
 - (c) Borough Engineer.
 - (d) Tax Assessor.
 - (e) County Planning Board.

- D. In addition to the provisions of this chapter, all subdivisions which adjoin, include or affect county roads, county drainage structures or county drainage facilities shall meet the design standards specified in and required by the County Development Standards; and subdivision development shall meet the regulations and requirements of this chapter and Chapter 102.

§ 245-58. Subdivision submission requirements.

- A. Common requirements. Plats shall be drawn on sheets measuring 24 inches by 36 inches. They shall show or include the following information:
- (1) Name and address of applicant and owner.
 - (2) Borough Tax Map block and lot numbers.

- (3) Name, title, professional seal and signature of person preparing the plat.
- (4) Place for the Chairman, the administrative officer of the Planning Board and the Borough Engineer to sign.
- (5) Scale shall equal 50 feet to the inch except, for one acre or less, the scale shall be 20 feet to the inch.
- (6) Date and revision dates of drawings.
- (7) North arrow.
- (8) Key map showing the entire site plan and its relation to surrounding areas. Where required for a public hearing, the key map shall show name and location of all property owners within 200 feet, with block and lot numbers.
- (9) Name and location of all contiguous property owners, with block and lot numbers.
- (10) Existing zoning and zone boundaries and contiguous zone classifications.
- (11) All existing and proposed streets within 200 feet.
- (12) Area of entire tract.
- (13) Area of each proposed lot, lot widths and depths.
- (14) All existing and proposed property line dimensions and bearings, and all setback lines, except that a sketch plat for a cluster development need not show bearings.
- (15) Present and proposed elevations based on New Jersey Geodetic Control Survey Datum, at two-foot contour intervals.
- (16) Location, size and nature of all existing and proposed rights-of-way, easements and other lands, if any, to be dedicated to the Borough.
- (17) Location and type of all existing and proposed storm drainage facilities, watercourses and ditches, water and sanitary sewer lines.
- (18) Location of all trees 6" or greater DBH and tree masses.
- (19) Historic Preservation Checklist for Certification, delivered to Historic Preservation Committee.

B. Sketch plats.

- (1) Sketch plats for a cluster development subdivision shall be designed and drawn by a New Jersey licensed professional engineer, surveyor, planner or architect. It shall meet the requirements of Subsection **A** above and, in addition, shall show major environmental features such as vegetation, soils, ground and surface waters and land proposed to be left as open space.
- (2) The Planning Board may require additional and more specific information to provide the basis for a decision on a conventional or a clustering design option.

C. Minor subdivision plats. A minor subdivision plat shall be prepared by a New Jersey licensed professional engineer or land surveyor and shall meet the requirements of Subsection **A** above. In addition, the plat shall show all existing structures and trees 6" or greater DBH on the tract.

D. Preliminary plat. The preliminary plat shall be designed and drawn by a New Jersey licensed professional engineer in accordance with Section III(C) of the County Development Standards, as the same presently exists and as may be amended or supplemented from time to time, and shall be accompanied by the other maps, documents, plans, items and other items specified in and required by Section III(C). It shall also meet the requirements of Subsection **A**, Common requirements, hereinabove. In addition, the developer shall:

- (1) Submit plans of any proposed utility layouts showing feasible connections to existing or any proposed utility system.

- (2) Submit a copy of any protective covenants, easements or deed restrictions which apply to the land being subdivided.
 - (3) When an individual water supply or sewage disposal system is proposed, submit a plan for such system which has been approved by the appropriate local, county or state health agency. When a public sewage disposal system is not available, the developer shall have percolation tests made and submit the results, approved by the Borough Board of Health, with the preliminary plat.
 - (4) Submit an environmental impact statement.
 - (5) Submit a soil erosion and sedimentation control plan.
 - (6) Submit a surface water management plan.
 - (7) Submit a groundwater management plan if in the Wellhead Protection Area.
 - (8) Submit a landscaping plan.
 - (9) Submit a wetlands and transition area delineation or waiver approved by the New Jersey Department of Environmental Protection (NJDEP).
- E. Final plat. The final plat shall be designed and drawn by a licensed New Jersey land surveyor on the basis of, and in accordance with, the Map Filing Act, N.J.S.A. 46:23-9.9 et seq., and Sections III(D) and (E) of the County Development Standards, as the same presently exist and as the same may be amended or supplemented from time to time. The final plats shall show that all Borough and county requirements involved in obtaining tentative approval for the preliminary plat have been met and shall be accompanied by any other maps, documents, plans and other items specified in and required by said sections III(D) and (E).

§ 245-59. Utilities.

- A. General plans. When an individual water supply or sewage disposal system is proposed, the plan for such systems shall be approved by the appropriate local, county or state health agency and such approval shall be submitted with the preliminary plat. Any submission or part thereof which does not meet the requirements of this chapter and other applicable laws, ordinances and regulations shall not be approved. Any remedy proposed to overcome such a situation shall first be approved by the appropriate local, county or state health agency.
- B. Underground utilities. For all major subdivisions, the applicant shall arrange with the serving utilities for the underground installation of the utility's distribution supply lines and service connections in accordance with the provisions of the applicable standard terms and conditions incorporated as a part of its tariff, as the same are then on file with the State of New Jersey Board of Public Utility Commissioners. The applicant shall submit to the Planning Board, prior to the granting of preliminary approval, a written instrument from each serving utility, which shall evidence full compliance with the provisions of this subsection, provided that lots in such subdivisions which abut existing streets where overhead electric or telephone distribution supply lines have theretofore been installed on any portion of the streets involved may be supplied with electric and telephone service from such overhead lines or extensions thereof, but the service connections from the utilities' overhead lines shall be installed underground. The location of access facilities for servicing the utility in the proposed subdivision shall be developed in conjunction with and as part of the complete subdivision plan.
- C. Rights-of-way. Wherever the utility is not installed in the public right-of-way, an appropriate utility easement not less than 15 feet in width shall be provided.
- D. Inspection and approval by Borough. All such underground installations for utilities and their service lines shall be subject to inspection and approval by the Borough Engineer, who shall be notified of such underground installations at least 48 hours prior to any excavation therefor. No underground installation shall be covered until inspected and approved by the Borough Engineer and those agencies having jurisdiction over the particular installation.

§ 245-60. Certificate showing approval of subdivision.

The provisions of N.J.S.A. 40:55D-56 and 40:55D-57 shall apply to any request by a prospective purchaser, mortgagee, or other person interested in any land which forms a part of a subdivision, or which formed part of such a subdivision, three years preceding the effective date of the Municipal Land Use Law, where such request is for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board.

§ 245-61. Violations and penalties.

- A. If, before final approval has been obtained, any person transfers, sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which, by ordinance, the Planning Board shall be required to act, such person shall be subject to a fine as provided in Article III of Chapter 1, and each parcel, plot or lot so disposed of shall be deemed a separate violation.
- B. In addition to the foregoing, if the streets in the subdivision are not such that a structure on the land in the subdivision would meet requirements for a construction permit under N.J.S.A. 40:55D-34 and 40:55D-35, the Borough may institute and maintain a civil action for injunctive relief or set aside and invalidate any conveyance made pursuant to such a contract or sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.
- C. In any such action the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider or his assigns or successors to secure the return of any deposit made or purchase price paid, and also a reasonable search fee, survey expense and title closing expense, if any. Any such action shall be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of such land, or within six years if unrecorded.

§ 245-62. Installations and improvements.

- A. Prior to the filing of final subdivision plats or recording of minor subdivision deeds; or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, the developer shall have installed or shall have furnished performance guarantees as permitted pursuant to § 245-63 for the ultimate installation of the following as required or deemed necessary or by the Planning Board or Board of Adjustment:
 - (1) Streets shall be constructed in accordance with Standards for Subdivision Construction, latest revision, as prepared by the Borough Engineer. Water and sewer construction and other improvements shall be performed in accordance with a developer's agreement with the Borough Council.
 - (2) Curbs and sidewalks.
 - (a) Curbs shall be installed on both sides of all new roads and shall conform with the above Standards for Subdivision Construction as required by the Planning Board.
 - (b) When curbing in residential areas is deemed necessary by the Planning Board, mountable curbing shall be installed, except where vertical curbing is required for pedestrian safety or where it has been an established pattern in the neighborhood. Such vertical curbing is to be of concrete unless a pattern of Belgian block has been established in the neighborhood in which case Belgian block shall be used.
 - (c) Sidewalks shall be installed on one side of a road, or as required by the Planning Board. The requirements of sidewalks may be waived if, in the judgment of the Planning Board with the concurrence of the Borough Council, they are neither desirable nor necessary.
 - (3) Streetlights.
 - (4) Shade trees shall be located as approved by the Borough Shade Tree Commission in the right-of-way so as not to interfere with utilities or sidewalks. Shade trees shall be of the species listed in the

"Recommended List of Replacement Trees" maintained on the Borough website and kept on file in the office of the Borough Clerk; or any species approved by the Shade Tree Commission.

- (5) Monuments shall be of the size and shape required by N.J.S.A. 46:23-9.9 et seq., and shall be placed in accordance with the statute.
 - (6) All water main, culvert and storm sewer installations shall be properly connected with an approved system and shall be adequate to handle all present and probable future development. All sewer connection fees for all lots shall be paid to the Borough.
- B. All of the above listed improvements shall be subject to inspection and approval by the Borough Engineer who shall be notified by the developer at least 48 hours prior to the commencement of construction. No underground installation shall be covered until inspected and approved.
- C. No topsoil shall be removed from the site or used as spoil unless approved by the Planning Board. Topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting. Nothing herein shall be deemed to waive any requirement of Chapter **102**. Nothing herein shall be deemed to waive any requirements for construction permits.
- D. Notwithstanding any other provision of this chapter, no certificate of occupancy shall be issued to the subdivider until all improvements as shown on the approved improvement plans are installed and approved by the Borough Engineer, except such permit may be issued:
- (1) On certification in writing by the Borough Engineer that all improvements listed in this section and **§254-63** have been installed or improved; that the best interests of the Borough require a delay for engineering reasons before the subdivider completes the other improvements; and that the subdivider posts a cash bond in the amount approved by the Borough Engineer for that portion of the improvements yet to be completed and maintenance of those completed in the particular section affecting the building in question.
 - (2) The subdivider shall notify each homeowner on forms supplied by the Borough Clerk that he has deposited funds with the Borough to guarantee the completion and maintenance of the required improvements and a copy thereof, together with proof of service, shall be filed with the Borough Engineer. The maintenance guarantee shall remain in effect for two years from date of approval of the improvement by the Borough Engineer.
- E. Grading.
- (1) Prior to the issuance of a certificate of occupancy, the subdivider shall have graded the land of the lot to which the certificate of occupancy applied, in a manner approved by the engineer to ensure proper drainage of the lot.
 - (2) All lots shall be graded to drain away from the buildings on the lot. The grading shall be at a minimum slope of 2%. Where the ground beyond the limits of the above grading rises in elevation, the grading shall include a swale parallel to the building. Such swale shall have a minimum slope of 1%. All drainage provisions shall be of such design so as to adequately handle the surface runoff and carry it to the nearest suitable outlet.
- F. Acceptance of certain public utility improvements. The provisions of N.J.S.A. 40:55D-53.6 shall apply to any street lighting required to be installed as a condition of any development approval on a dedicated public street connected to a public utility.

§ 245-63. Performance and maintenance guarantees

- A. Performance guarantees. The Borough of Mountain Lakes may require and shall accept in accordance with N.J.S.A. 40:55D-53 and 53.1, a developer to furnish a performance guarantee in favor of the Borough for the purpose of assuring the installation and maintenance of certain on-tract improvements, in accordance with the following:

- (1) The amount of the performance guarantee shall not exceed 120% of the cost of installation of only those improvements set forth herein as required by an approval, developer's agreement, ordinance, or regulation to be dedicated to a public entity and have not been installed. The cost of installation shall be determined and/or approved by the Borough Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 in an itemized cost estimate, which shall be appended to each performance guarantee posted by the obligor. The following improvements as shown on the approved plans or plat shall be included in the calculation of cost of installation for the purposes of a performance guarantee: streets, pavement, gutters, curbs, sidewalks, streetlighting, street trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law," P.L.1960, c.141 (C.46:23-9.9 et seq.; repealed by section 2 of P.L.2011, c.217) or N.J.S.46:26B-1 through N.J.S.46:26B-8, water mains, sanitary sewers, community septic systems, drainage structures, public improvements of open space, and any grading necessitated by the preceding improvements.
 - (2) A performance guarantee shall also include, within an approved phase or section of a development, privately-owned perimeter buffer landscaping, as required by local ordinance or imposed as a condition of approval. At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.
 - (3) A successor developer shall furnish a replacement performance guarantee in accordance with this section as a condition to the approval of a permit update under the State Uniform Construction Code, for the purpose of updating the name and address of the owner of the property on a construction permit.
 - (4) Ten (10%) percent of every performance guarantee shall be in the form of cash or a certified check payable to the Borough of Mountain Lakes, with the remaining 90% provided by a bonding or surety company authorized to serve as a surety in the State of New Jersey and approved by the Borough Council and Borough Attorney as to form pursuant to N.J.S.A. 40:55D-53b; cash or a certified check; an irrevocable letter of credit pursuant to N.J.S.A. 40:55D-53.5; or such other security as may be approved by the Borough Council.
- B. The Borough may require a developer to furnish a "safety and stabilization" guarantee in favor of the Borough. At the developer's option, a "safety and stabilization" guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee.
- (5) The "safety and stabilization" guarantee shall be available to the municipality solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:
 - (a) Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and
 - (b) Work has not recommenced within 30 days following the provision of written notice by the municipality to the developer of the municipality's intent to claim payment under the guarantee. The Borough shall not provide notice of its intent to claim payment under a "safety and stabilization guarantee" until a period of at least 60 days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Borough shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.
 - (6) The amount of a "safety and stabilization guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.
 - (7) The amount of a "safety and stabilization guarantee" for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows: \$5,000 for the first \$100,000 of bonded

improvement costs, plus two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus one percent of bonded improvement costs in excess of \$1,000,000.

- (8) The Borough shall release a separate “safety and stabilization guarantee” to a developer upon the developer’s furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this paragraph.
 - (9) The Borough shall release a “safety and stabilization guarantee” upon the Borough Engineer’s determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.
- C. Maintenance guarantees. The developer shall post with the Borough, prior to the release of a performance guarantee required pursuant to this section, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.
- (1) The maintenance guarantee shall be posted, upon the inspection and issuance of final approval of the following site improvements by the Borough Engineer, in an amount not to exceed 15% of the cost of the installation: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in N.J.S.A. 40:55D-53.4.
 - (2) Every maintenance guarantee shall be expressly conditioned upon maintenance by the developer of all covered improvements for a period of two years, and particularly shall guarantee the remedying of any defects in such improvements which occur during that period. The maintenance guarantee shall further guarantee the replacement of any shade trees found to be unhealthy within two years of planting.
 - (3) In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required for such utilities or improvements.
 - (4) Notwithstanding anything to the contrary herein or set forth in the Municipal Land Use Law, the Borough may use all or any part of moneys deposited in connection with a maintenance guarantee to the extent necessary to complete or repair required improvements, and such action by the Borough shall not relieve any obligor and/or surety of its obligations in connection with the maintenance guarantee.
- D. Without limiting the foregoing in any way, the provisions of N.J.S.A. 40:55D-53, 53a, 53b, 53c, 53.3, 53.4, and 53.5 and N.J.S.A. 40:55D-53.5 shall apply to all guaranties submitted to the Borough of Mountain Lakes in accordance with this section.

§ 245-64. Design standards for subdivisions and site plans.

- A. General. The subdivision plat and site plan shall conform to design standards that shall encourage good development patterns within the Borough. The subdivision and site plan shall conform to the proposals and conditions shown in the Master Plan. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on the Master Plan shall be considered. Streets and drainage rights-of-way shall be shown on the final plat in accordance with N.J.S.A. 40:55D-38 et seq., and shall be such as to lend themselves to the harmonious development of the Borough and enhance the public welfare in accordance with the design standards hereinafter set forth.
- B. Streets.
- (1) The arrangement of streets shall be such as to provide for the appropriate extension of, or intersection with, existing streets.
 - (2) Minor streets shall be so designed as to discourage through traffic.

- (3) Subdivisions abutting through traffic streets shall provide a marginal service road or reverse frontage with a buffer strip for planting, or some other means of separation of through and local traffic as the Planning Board may determine.
 - (4) The right-of-way width shall be measured from lot line to lot line and shall be not less than the following:
 - (a) Through traffic or arterial streets: 80 feet.
 - (b) Collector streets: 60 feet.
 - (c) Minor streets: 50 feet.
 - (d) Marginal access streets: 40 feet.
 - (e) The right-of-way width for internal roads and alleys in commercial and industrial development shall be determined on an individual basis and shall, in all cases, be of sufficient width and design to safely accommodate the maximum traffic, parking and loading needs and maximum access for fire-fighting equipment.
 - (5) The pavement width shall be determined for each case by the Planning Board, recognizing that, in residential areas, narrow streets and mountable curbing are preferred.
 - (6) No subdivision showing reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed in the Borough Council under conditions approved by the Planning Board.
 - (7) Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the Master Plan or the street width requirements of this chapter shall dedicate by deed, additional width along either one or both sides of the road if so required by the Planning Board. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated, if so required.
 - (8) Grades of through traffic streets and collector streets shall not exceed 4%. Grades on other streets shall not exceed 10%. No street shall have a minimum grade of less than 1%.
 - (9) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded at the property line with a curve radius of not less than 25 feet.
 - (10) Street jogs with center-line offsets of less than 125 feet shall be prohibited.
 - (11) A tangent at least 100 feet long shall be introduced between reverse curves on through traffic and collector streets.
 - (12) When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a center-line radius of not less than 100 feet for minor streets and 300 feet for through traffic and collector streets.
 - (13) All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
 - (14) Dead-end streets or culs-de-sac shall provide a turnaround at the end with a right-of-way radius of not less than 50 feet. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
 - (15) No street shall have a name which shall duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.
- C. Blocks. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the zoning provisions of this chapter and to provide for convenient access, circulation control and safety of street traffic.

D. Lots.

- (1) Lot dimensions and area shall not be less than the requirements of the applicable zoning provisions of this chapter.
- (2) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets. New side lot lines shall be straight from front to rear.
- (3) Each lot shall front upon an approved street.
- (4) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra line, and all setbacks shall be measured from such line.
- (5) Where there is a question as to the suitability of a lot(s) for its intended use due to factors such as rock formations, flood conditions, high water table or where percolation tests or test borings show the ground conditions to be inadequate for proper sewage disposal, or where there exists similar circumstances, the Planning Board may, after adequate investigation, withhold approval of such lots that do not meet the requirements set forth in Chapter 102.
- (6) No lot may be subdivided so that a new house could be constructed behind existing houses in the interior of an established block, or in such a manner that a new lot can meet the required frontage only by creating a new street, except for a subdivision of more than three lots.

E. Public use and service areas.

- (1) In large-scale developments, easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least 15 feet wide and located in consultation with the companies or municipal departments concerned.
- (2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and with such further width or construction, or both, as is necessary to protect such waterway, as determined by the Borough Engineer.

F. Building and design layout. The building and design layout of buildings and parking areas shall provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to energy conservation during construction and operation, safety and fire protection and impact on surrounding development and contiguous and adjacent buildings and lands. Architectural design shall be compatible with the environmental and natural characteristics of the tract. Natural features such as trees, hilltops and views shall be preserved wherever possible in designing any subdivision containing such features.

G. Lighting.

- (1) Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Board. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.
- (2) All parking areas shall be lighted to provide a minimum of three footcandles at intersections and a total average illumination of one footcandle throughout the parking area. Such lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.

H. Buffering.

- (1) Buffering shall be located to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles and to shield activities from adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, berms, rocks, boulders, mounds, bushes, deciduous trees or combinations thereof to achieve the stated objectives. The preservation of natural vegetation shall be maximized.
- (2) Extensive buffers shall be provided on nonresidential land abutting residential zones or areas.

I. Landscaping.

- (1) Landscaping shall be provided as part of the overall plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants and the use of building and paving materials in an imaginative manner and with maximum use of existing vegetation where grading conditions permit.
- (2) A landscaping plan shall be submitted with each site plan application. The plan shall identify existing and proposed trees, shrubs, bushes, plant material, ground cover and natural features such as boulders and rock outcroppings and also utilities. It should show where they are or will be located and the planting details. When existing natural growth is proposed to remain, the applicant shall include in the plans proposed methods to protect the existing trees and growth during and after construction. These shall include fences, berms, curbing, tree walls and similar devices. The following principles should be followed:
 - (a) Locate and select landscaping features to provide for climate control and solar energy usage; for example, shade trees on the south, of species to shield the hot summer sun, yet permit the winter sun to filter through.
 - (b) Use landscaping to accent and complement buildings; for example, groupings of tall trees to break up long, low buildings and lower plantings for taller buildings.
 - (c) Provide landscaping in public areas, recreation sites and adjacent to buildings
 - (d) Consider vines and climbing plants for large expanses of walls.
 - (e) Consider massing trees at critical points rather than in a straight line at predetermined intervals along streets. Vary types by neighborhood.
 - (f) Use ground cover extensively to prevent erosion.
 - (g) Provide for a variety and mixture of landscaping. The variety should consider susceptibility to disease, colors, season, textures, shapes, blossoms and foliage.
 - (h) Consider local soil conditions and water availability in the choice of landscaping.
 - (i) Consider the impact of any proposed landscaping plan at various time intervals. Shrubs may grow and eventually block sight distances. Foundation plants may block out buildings.
 - (j) Use fewer large specimens rather than more numerous smaller ones.
 - (k) Use deciduous trees of at least two-inch caliper at planting. Evergreens should be at least four feet tall, shrubs at least two feet tall, at planting, except in buffers, where a greater height may be required. All trees shall be balled and burlapped.
 - (l) Provide the following intervals between street trees depending on the type, if street trees are planted:

Type of Tree	Planting Interval (feet)	Mature Height (feet)
Large trees	50 to 70	75 and up
Medium trees	40 to 50	40 to 75
Small and ornamental trees	20 to 40	40 or less

- (m) Provide special landscaping treatment at the site entrances.
- (n) Save unusual specimen trees or trees on slopes whose root systems function as soil stabilizers by proper design of the grade. Maximum effort should be made to save clumps of trees rather than individual ones.
- (o) Landscape at least 5% of the parking area and install one tree for each 10 spaces. The

landscaping should be located in protected areas, such as along walkways, center islands and at the end of bays. In narrow islands, use low spreading plants.

§ 245-65. Site plan review and approval.

- A. Informal Review. At the request of the developer, the Planning Board shall grant an informal review of a conceptual site plan for a development for which the developer intends to prepare and submit an application. The developer shall not be required to submit an application fee for such an informal review but will be required to establish an escrow account to cover the cost for professional services. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review. The informal review presentation shall be limited to 30 minutes.
- B. Prior to the issuance of a construction permit or a certificate of occupancy for any proposed use or use accessory thereto, except for a single-family home and a municipal capital improvement project, the Planning Board shall review and approve a site plan of the proposed use to ascertain compliance with the provisions of this chapter. However, a sketch plan for a home occupation as a conditional use is acceptable, provided that the requirements of § 245-100 of this chapter are met and that the property has been inspected by a member of the Site Plan Committee of the Planning Board or by a Borough professional. For a change in use that requires no change in existing site improvements and which will cause no significant change in off-site impact, the Planning Board may waive the requirements for a site plan as part of its review. If the Planning Board finds that all requirements have been complied with, it shall approve the site plan and endorse the approval upon the original and at least two copies. One approved copy shall be returned to the applicant and one copy each filed with the Construction Official and Zoning Officer. A change in a duly approved site plan shall require approval of the Planning Board or the Zoning Board of Adjustment and shall require a new certificate of occupancy.
- C. The Planning Board or Zoning Board of Adjustment, when acting upon applications for minor site plan and preliminary site plan approval, shall have the power to grant such exceptions from the requirements for approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of this chapter, if the literal enforcement of one or more provisions of this article is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

§ 245-66. Enforcement and guaranties.

- A. With respect to any application for a construction permit or a certificate of occupancy related to a site plan approved pursuant to this chapter, the Construction Official, Code Enforcement Official or Zoning Officer may require such evidence as may be necessary to determine whether or not the proposed use will reasonably conform to the requirements of this section and to the site plan previously approved by the Planning Board.
- B. Prior to the issuance of a construction permit or certificate of occupancy by the Construction Official, the Planning Board shall require the posting of a performance guarantee adequate to cover the cost of all improvements; such improvements shall be completed within 18 months after the date of approval of site plan.
- C. The Planning Board may require the posting of a maintenance bond as set forth in § 245-63B.
- D. All necessary permits and approvals shall be obtained before a construction permit may be issued and before construction may commence.

§ 245-67. Site plan submission and design requirements.

- A. The site plan shall show or include the following information:
 - (1) Name and address of applicant and owner.
 - (2) Borough Tax Map block and lot numbers.
 - (3) Name, title, professional seal and signature of person preparing the plat.

- (4) Place for the Chairperson, the administrative officer of the Planning Board and the Borough Engineer to sign.
- (5) Scale shall equal 50 feet to the inch except, for one acre or less, the scale shall be 20 feet to the inch.
- (6) Date and revision dates of drawings.
- (7) North arrow.
- (8) Key map showing the entire site plan and its relation to surrounding areas. Where required for a public hearing, the key map shall show name and location of all property owners within 200 feet, with block and lot numbers.
- (9) Name and location of all contiguous property owners, with block and lot numbers.
- (10) Existing zoning and zone boundaries and contiguous zone classifications.
- (11) All existing and proposed streets within 200 feet.
- (12) Area of lot.
- (13) Lot frontage and lot depth.
- (14) All existing and proposed bearings and all setback lines.
- (15) Present and proposed elevations based on New Jersey Geodetic Control Survey Datum, at two-foot contour intervals, and delineate slopes of 15% or greater.
- (16) Location, size and nature of all existing and proposed rights-of-way, easements and other lands, if any, to be dedicated to the Borough.
- (17) Location and type of all existing and proposed storm drainage facilities, watercourses and ditches, water and sanitary sewer lines.
- (18) Location of all trees 6" or greater DBH and tree masses.
- (19) Location of all existing and proposed buildings.
- (20) The location of all structures within 200 feet of the property.
- (21) Location of off-street parking areas with dimensions showing parking spaces, loading docks, access drives and a traffic circulation pattern showing all ingress and egress means to site.
- (22) Location and description of all proposed signs and exterior lighting.
- (23) Location, type and size of electric, telephone, cable television and gas mains and appurtenances, both above and below the ground.
- (24) All landscaping, fences, walls, hedges or similar facilities.
- (25) The first-floor plan and front elevation of all proposed buildings.
- (26) Environmental impact statement (major site plans only).
- (27) Soil erosion and sedimentation control plan.
- (28) Surface water management plan.
- (29) Wellhead Protection Area compliance.
- (30) Landscaping plan.
- (31) Wetlands and transition area delineation or waiver approved by the NJDEP.
- (32) Historic Preservation Checklist for Certification, delivered to Historic Preservation Committee.

B. All requirements, as applicable, of §§**245-59**, **245-60** and **245-61** shall be met.

- C. In reviewing and acting upon a site plan, the Planning Board shall ascertain that all of the following requirements have been complied with:
- (1) All provisions of Chapters **102** and **245**.
 - (2) That the location, design or construction of any building or use, including the space for loading and unloading of goods and materials, is not likely to increase the risk of vehicular traffic congestion or danger to pedestrians or general public safety.
 - (3) The location, number and size of signs and exterior lighting comply in all respects to Article **XIV, Signs** and § **245-63**. With respect to lighting, the Planning Board may impose requirements concerning lumen strength, shielding and other similar matters, with the objective of protecting neighboring properties from such glare as might become a nuisance while providing sufficient illumination on the premises for safety, security and like purposes.
 - (4) That adequate water supply, drainage facilities and sanitary and waste disposal facilities exist, provided that approval by the Planning Board shall not be given until the adequacy and arrangement of the water supply shall have been approved by the Borough Engineer and the purity of the water supply, drainage and sanitary and waste disposal facilities shall have been approved by the Board of Health and the Borough Engineer.
 - (5) Anything hereinbefore stated to the contrary notwithstanding, before granting any site approval, the Planning Board shall obtain reports thereon from the Borough Engineer, the Board of Health, the Fire Department and the Police Department and may obtain reports thereon from the Environmental Commission, the Morris County Planning Board and from such other Borough officers, committees and commissions as may be deemed necessary, with special attention to the effect of such approval upon existing municipal services and utilities, it may also hold a public hearing thereon. Should additional facilities be needed, the Planning Board shall forward its recommendations to the Borough Council and shall not issue approval until the Borough Council has either entered into an agreement with the applicant regarding the development of such facilities or has authorized the Planning Board to proceed.

§ 245-68. Residential site improvement standards.

To the extent that any residential site improvement, as defined in § **245-3**, is governed by the Residential Site Improvement Standards, it shall be governed exclusively by the Residential Site Improvement Standards, as the same may be amended from time to time, and not by any other provisions of this chapter.

§ 245-69. Additional submission requirements for wireless telecommunications facilities.

If a site plan proposes the placement, construction, erection or modification of a wireless telecommunications facility (excluding eligible facility requests as defined in this chapter), in addition to the applicable documentation and items of information required for site plan approval, the following additional documentation and items of information are required to be submitted to the Planning Board or Board of Adjustment for review and approval as part of the site plan submission:

- A. Documentation by a qualified expert that any existing or proposed wireless telecommunications facility can accommodate capacity for the number and type of antennas proposed;
- B. Documentation by a qualified expert that any proposed wireless telecommunications facilities will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industries Association (EIA) and/or the Telecommunication Industry Association (TIA) have been met;
- C. A letter of intent by the applicant, in a form which is reviewed and approved by the Borough Attorney, indicating that the applicant will share the use of any wireless telecommunications facilities with other approved providers of wireless communications services;
- D. A visual impact study, graphically simulating through models, computer enhanced graphics or similar

techniques, the appearance of any proposed tower and indicating its view from at least five locations around and within one mile of the proposed wireless telecommunications facility where the wireless telecommunications facility will be most visible; aerial photographs of the impact area shall also be submitted; and

- E. Comments and approvals from all boards, commissions and agencies having jurisdiction shall be considered before final approval.

Article IX. Zoning Districts; Zoning Map and Schedule of Requirements.

§ 245-70. Zoning Districts.

For the purpose of this chapter, the Borough is hereby divided into zones as follows:

R-AA	Residential Zone — Single-Family
R-A	Residential Zone — Single-Family
R-1	Residential Zone — Single-Family
R-2	Residential Zone — Single-Family
RC-2	Residential Zone — Single-Family Clustering Option
RC-3	Residential Zone — Single-Family Clustering Option
R-AH	Residential Zone — Affordable Housing
R-AH2	Residential Zone — Affordable Housing
R-AH3	Residential Zone — Affordable Housing
A	Business Zone
B	Business Zone
OL-1	Office, Light Industrial Zone
OL-2	Office, Light Industrial Zone
OL-2/R-1	Office, Light Industrial Zone/R-1 Residential Overlay
C-1	Conservation Zone
C-2	Conservation Zone
OL-1/MF-AHO	Office and Light Industrial Zone/Multifamily Affordable Housing Overlay
OL-2/MF-AHO	Office and Light Industrial Zone/Multifamily Affordable Housing Overlay

§ 245-71. Zoning Map.

The locations and boundaries of the zones are hereby established on the most recently approved and adopted Zoning Map on file with the Borough Clerk, which is hereby made and declared a part of this chapter. The zone boundaries follow property boundaries or the center of street rights-of-way, except as otherwise noted on the Zoning Map.

§ 245-72. Schedule of Requirements.

Where not otherwise established in Articles **X** and **XI**, lot areas and height, setback, coverage and other restrictions on the bulk of buildings shall apply according to the accompanying **Schedule I: Bulk Requirements**, which is hereby declared to be a part of this chapter.

Article X. Zoning District Regulations

§ 245-73. Residential Zones R-AA, R-A, R-1 and R-2.

In the R-AA, R-A, R-1 and R-2 Zones, the following uses shall be permitted:

- A. Permitted principal uses.
 - (1) Single-family detached dwellings.
 - (2) Playgrounds; and parks
 - (3) Any municipally owned or operated building, other structure, facility or use.
- B. Permitted accessory uses.
 - (1) Accessory uses customarily incident to a permitted use or to an authorized conditional use. Such accessory uses shall include garages, carports, sheds, toolhouses, pergolas, gazebos, boathouses, boat racks, greenhouses, playhouses, private swimming pools, exterior air-conditioning units, exterior mechanical equipment and retaining walls.
 - (2) Fences in accordance with § 245-89H.
 - (3) Play equipment shall be permitted as an accessory use upon all improved residential lots located within residential zones, provided that play equipment shall not be located closer to any street right-of-way line than the residence located on the lot; play equipment shall be set back by no less than 10 feet from any side, rear or lake lot line; and play equipment shall not exceed 12 feet in height, measured vertically from highest point.
 - (4) Those home occupations or professions that have no nonresident employees, no client visitors, show no visible external evidence of the occupation and have no other negative impact on the neighborhood. Such occupation shall be considered accessory uses subject to the following conditions:
 - (a) The principal use of the property must be as a residence, with the amount of the property used for the home occupation limited to a maximum of 500 square feet or 1/3 of the square footage of all buildings on the property, whichever is smaller.
 - (b) The principal professional of any accessory home occupation shall reside on the premises.
 - (5) Family day-care homes as defined in N.J.S.A. 40:55D-66.5b.
 - (6) Affordable accessory apartments in accordance with Article XVIII of this chapter.
- C. Conditional uses.
 - (1) Home occupations that do not meet the defined requirements of an accessory use at Subsection B(4) above, subject to the provisions of § 245-100.
 - (2) Clubs, subject to the provisions of § 245-101.
 - (3) Public and private schools; places of worship; places of assembly; noncommercial recreation centers such as YMCAs; and philanthropic institutions, subject to the provisions of § 245-102.
 - (4) Child-care centers, subject to the provisions of § 245-103.

§ 245-74. Residential Zones RC-2 and RC-3.

In the RC-2 and RC-3 Zones, the following uses shall be permitted:

- A. Permitted principal uses. Same as in § 245-73A.
- B. Permitted accessory uses. Same as in § 245-73B.
- C. Conditional uses.
 - (1) Same as in § 245-73C.

- (2) Residential clustering subject to the restrictions and criteria in § 245-104.
- (3) Zero lot line developments subject to the conditions in § 245-105.
- (4) In the RC-3 Zones only, townhouses, subject to conditions and criteria stated in § 245-104B(3), maximum number of lots; § 245-104C, Procedures for cluster development; § 245-104D, Location and use of open space; § 245-104E, Disposition of open space; and § 245-106, Townhouse option of the RC-3 Zone; and other applicable criteria in this chapter.

§ 245-75. Residential — Affordable Housing (R-AH) Zone.

The purpose of the R-AH Zone is to provide a realistic opportunity for the construction of affordable housing as part of a comprehensively planned housing development, in conformance with the Borough's approved Housing Element and Fair Share Plan and the regulations of this chapter governing affordable housing. In the R-AH Zone, the following uses shall be permitted:

- A. Permitted principal uses. Single-family attached or multifamily dwellings in accordance with the provisions below and the development standards enumerated in Subsection C:
 - (1) A maximum of 47 dwelling units shall be permitted, of which at least eight units shall be set aside as affordable housing.
 - (2) Units may be age-restricted in accordance with the Fair Housing Act, 42 USC 3601 et seq.; provided, however, that no more than four of the units affordable to low- and moderate- income households may be age-restricted.
 - (3) Dwellings constructed for low- and moderate-income households shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Article XVIII of this chapter.
 - (4) The development, phasing and marketing of all housing constructed for low- and moderate-income households shall be undertaken consistent with the rules and regulations of the New Jersey Council on Affordable Housing and the provisions of Article XVIII of this chapter.
- B. Permitted accessory uses. Same as in § 245-73B, except that all accessory structures shall be designed to serve or be developed in relation to the entire development and shall be subject to site plan approval.
- C. Development standards.

Type	Requirement
Minimum tract size	8 acres
Minimum tract frontage and depth	100 feet
Minimum setbacks (principal buildings)	
From public right-of-way	40 feet ²
From side or rear perimeter property lines	25 feet
Minimum setbacks (accessory buildings)	
From public right-of-way	40 feet
From side or rear perimeter property lines	25 feet
Maximum height	2 1/2 stories/35 feet ³
Parking requirements	See N.J.A.C. 5:21-1.1 et seq. (Statewide Residential Site Improvement Standards) for total number of spaces to be provided. A minimum of one space per unit shall be provided in an enclosed garage. As to the low- or moderate-income units, there shall be no garage requirements.
On-site rights-of-way (ROW) and pavement widths	See N.J.A.C. 5:21-1.1 et seq.
Maximum floor area ratio (FAR)	30.5% ¹
Maximum improved coverage	34%

NOTES:

- ¹ The maximum FAR shall be calculated based upon the gross area of the site located within the R-AH Zone prior to any right-of-way dedication for road widening purposes along Moms Avenue and/or Fanny Road.
 - ² An elevated deck attached to a townhouse shall be permitted to extend up to eight feet into the required minimum setback from the Fanny Road public right-of-way provided the floor area of the deck is less than 125 square feet and the deck is unroofed and unenclosed except for safety railings, and provided that the intervening yard area is effectively buffered by landscaping.
 - ³ A maximum building height of three stories and 39 feet shall be permitted for market rate townhouses in buildings in which any portion of the building is within 150 feet of Morris Avenue or within 50 feet of Fanny Road. This extended height limit shall apply to a maximum of five buildings containing a maximum of 22 townhouse units.
- D. Setbacks between buildings; setbacks to interior roads and parking areas. In reviewing a site plan for any development in the R-AH Zone, the Planning Board shall have authority to review and approve all setbacks between buildings and between buildings and interior roads, parking areas and other structures in order to ensure the preservation of adequate light, air and open space.
 - E. In site plan review process, the Planning Board shall also review consistency with the Master Plan requirements relating to the protection of environmental areas, particularly the Conservation Zone, and facilitation of pedestrian access to community resources.
 - F. Homeowners' association. If a homeowners' association is formed, it shall be approved in the manner stipulated in § **245-105G**.
 - G. Affordable Housing Zone shall be exempt from measuring to existing (original) grades as defined in § **245-3** under definitions for "Building height (residential zones)," "grade plane," and "story above grade." All measurements are to be from proposed grades.
 - H. Affordable Housing Zone shall be exempt from the "three-foot maximum change in average grade as measured along any wall of a building" requirement, as set forth at § **245-87**
 - I. Each townhouse unit within the Affordable Housing Zone shall be considered a building for the purpose of measuring building height at street (residential zones), grade plane, and story above grade. Two or more units at similar floor elevations may be used to calculate the non-street frontage of building height.

§ 245-76. Residential — Affordable Housing 2 (R-AH2) Zone.

The purpose of the R-AH2 Zone is to provide a realistic opportunity for the construction of affordable housing as part of a comprehensively planned housing development, in conformance with the regulations of this chapter governing affordable housing. In the R-AH2 Zone, the following uses shall be permitted:

- A. Permitted principal uses. Townhouses and multifamily dwellings in accordance with the provisions below and the development standards enumerated in Subsection **C**:
 - (1) All of the market rate dwellings shall be townhouse units.
 - (2) Affordable dwellings may be either townhouse or multifamily units.
 - (3) Fifteen percent of all dwelling units shall be set aside as affordable housing.
 - (4) Dwellings constructed for low- and moderate-income households shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Article **XVII** of this chapter.
 - (5) The development, unit distribution and marketing of all housing constructed for low- and moderate-income households shall be undertaken consistent with the rules and regulations of the New Jersey Council on Affordable Housing and the provisions of Article **XVII** of this chapter, except that the construction of affordable housing shall be required to be undertaken upon completion and issuance

of certificates of occupancy for 50% of the market rate units within the development.

- B. Permitted accessory uses shall be the same as in § **245-73B**, except that all accessory structures shall be designed to serve or be developed in relation to the entire development and shall be subject to site plan approval.
- C. Development standards.

Type	Requirement
Minimum tract size	7 acres
Minimum frontage on a public or private street or other right-of-way providing access to the tract	50 feet
Minimum setbacks (principal buildings)*	
From RC-3 zone boundary	50 feet
From any other tract boundary	25 feet
From internal access road	25 feet with sidewalks 22 feet without sidewalks
Minimum setbacks (accessory buildings)	Same as for principal buildings
Maximum height	3 stories/35 feet
Maximum density	5.5 dwelling units per gross acre; however, in no event shall the total number of dwellings exceed 40
Parking requirements	See N.J.A.C. 5:21-1.1 et seq. (Statewide Residential Site Improvement Standards) for total number of spaces to be provided. A minimum of one space per unit shall be provided in an enclosed garage for market rate units.
On-site rights-of-way (ROW) and pavement widths	See N.J.A.C. 5:21-1.1 et seq.
Maximum improved coverage	45%

NOTES:

- * Dwelling unit patios, decks, elevated decks, appurtenances such as railings or stairs, privacy fencing, HVAC units and pedestrian entrance structures such as stairs, pads, roof overhangs, walkways, and railings shall be permitted to extend no more than 10 feet into any required minimum setback. No such area shall be enclosed except for overhead decks, pedestrian entrance roof overhangs and safety railings. Extensions into required minimum setbacks shall be effectively buffered by landscaping.

- D. Permitted slope disturbance. For the purpose of ensuring that there is sufficient area to reasonably accommodate the construction of townhouses/multifamily units while at the same time limiting the amount of disturbance within areas with slopes in excess of 15%, a slope disturbance analysis shall be included as part of the required submission. The slope analysis shall include the following information:
- (1) A building area shall be depicted on the plans which shall be inclusive of all proposed buildings as well as the area extending 20 feet from the front of said building and 10 feet from the side and rear of said buildings. The building area shall be the sum total of the footprints in square feet of all proposed buildings and the associated areas extending therefrom as herein described.
 - (2) A tabulation of the land areas within the following slope categories on the entire tract:
 - (a) 0% to 14.99%.
 - (b) 15% to 24.99%.
 - (c) 25% to 34.99%.
 - (d) 35% or greater.

- (3) A tabulation of the land areas in the above listed slope categories within the building area that are proposed to be disturbed.
- (4) Calculations showing the land areas of disturbance of each slope category within the building area as compared to the land area of slopes in each category on the entire tract. The maximum allowable slope disturbances within the building area as a percentage of land area in each slope category on the entire tract shall be as set forth in the following table:

Slope Category	Maximum Slope Disturbance
0 to 14.99%	100%
25% to 34.99%	10%
35% or greater	5%

- (5) Section **245-90** shall not apply in the R-AH2 Zone.

- E. Homeowners' association. If a homeowners' association is formed, it shall be approved in the manner stipulated in § **245-105G**.
- F. The Affordable Housing 2 Zone shall be exempt from measuring to existing (original) grades as defined in § **245-3**, under definitions for "building height (residential zones)," "grade plane," and "story above grade". Measurements shall be from the first floor elevation at the front door entrance of each market rate or affordable townhouse unit to the midpoint of a sloped roof. If the affordable dwellings are multifamily units and not townhouses, then the measurement shall be from the average first floor elevation at the front of the building to the midpoint of a sloped roof.
- G. The Affordable Housing 2 Zone shall be exempt from the "three-foot maximum change in average grade as measured along any wall of a building" requirement, as set forth at § **245-87**.
- H. Multiple principal buildings are permitted, except that no more than six units shall be permitted within any building. Buildings shall be separated from other buildings by a minimum of 50 feet, except that side-to-side orientations of buildings shall be separated a minimum of 25 feet and side-to-rear orientations of buildings shall be separated by a minimum of 40 feet.
- I. Section **245-91** shall not apply to development in the R-AH2 Zone. Variation shall be incorporated in building plans for and in the construction of groups of three townhouse units or more ("townhouse unit groups") to present variations in the elevation, design and appearance of the townhouse unit groups. Variation shall be achieved by differentiation in at least three of the design characteristics between townhouse unit groups on a group-by-group basis:
 - (1) Building materials or color.
 - (2) Setbacks created by horizontal movement of front facade.
 - (3) Vertical stepping.
 - (4) Entryway or front doors.
 - (5) Garage door location or styling.
 - (6) Window treatments.
 - (7) Roof presentation and treatment.
- J. Fences, only to the degree necessary for the health, safety, or welfare, shall be permitted, including within setbacks. Examples of such necessary fencing include fencing of decks, patios with dropoffs, steeply sloped areas, and detention basins.

§ 245-76. Residential — Affordable Housing 3 (R-AH3) Overlay Zone.

- A. Permitted principal and accessory uses. It is the intent within the R-AH3 Overlay Zone to permit uses

consistent with those permitted in the OL-2 Zoning District and to permit, as an alternative to the OL-2 uses, the development of an assisted living residence as conditional use. Permitted principal, accessory and conditional uses shall be as follows:

- (1) All principal and accessory uses permitted in the OL-2 Zone; or
- (2) Assisted living residences, as defined within Article I, § 245-3, Definitions, are permitted as a conditional use within the R-AH3 Overlay Zone. Assisted living residences shall only be permitted upon satisfaction of the standards contained in § 245-108 of this chapter.

§ 245-77. Business Zone A.

In the A Zone, the following uses shall be permitted:

A. Permitted principal uses.

- (1) Business or professional office or office building, including banks and other financial institutions.
- (2) Restaurant and club, excluding drive-in restaurant.
- (3) Retail business or service, excluding any business with outside storage or selling of gasoline, diesel fuel, propane, methane, natural gas or other potential aquifer pollutants (excluding items which are sold in their original sealed container); automotive service stations, repair shops or body shops; new car dealerships, used car storage or sales, motor vehicle and trailer rentals; dry-cleaning establishments; motels, hotels, tourist homes, rooming houses or other similar or analogous uses, including trailer camps and camps.
- (4) Child-care centers.

B. Permitted accessory uses.

- (1) Any use or structure customarily incidental to a principal permitted use.
- (2) Public and private parking.
- (3) Signs. See Article XIV.
- (4) Child-care centers.
- (5) Affordable accessory apartments in accordance with Article XVIII of this chapter.

C. Conditional uses: None.

D. Prohibited uses. The following uses are expressly prohibited:

- (1) Sexually oriented establishments.

§ 245-78. Business Zone B.

A. Permitted principal uses are the same as in § 245-77A ("Business Zone A"). In addition, the following principal uses shall be permitted:

- (1) Adult day-care facility.
- (2) Educational play center.
- (3) Health and fitness facility.
- (4) Indoor commercial recreation use.
- (5) Instructional schools and studios.
- (6) Pet care and grooming facility.
- (7) Satellite dry-cleaning establishment.

B. Permitted accessory uses. Same as § 245-77B except that affordable accessory apartments shall

not be permitted.

C. Conditional uses.

- (1) Hotels in accordance with § **245-109**.
- (2) Automobile service stations in accordance with § **245-110**.
- (3) Drive-in restaurants or restaurants with drive-through facilities where food or drink is served to customers in vehicles at a drive-through window in accordance with § **245-111**.
- (4) Self-storage facilities in accordance with § **245-112**.
- (5) Sexually oriented establishments in accordance with § **245-113**.

§ 245-79. Office and Light Industrial Zones OL-1 and OL-2.

In the OL-1 and OL-2 Zones, the following uses shall be permitted:

A. Permitted principal uses.

- (1) Business, professional or service offices and establishments, banks and other financial institutions. Retail and wholesale activities and businesses using hazardous substances shall be excluded.
- (2) Light manufacturing; processing of data and materials; storing, assembly or fabrication of goods and materials; printing and publishing; research. Businesses using hazardous substances as defined shall be excluded. Any use shall meet applicable performance standards.
- (3) Child-care centers.

B. Permitted accessory uses.

- (1) Any use or structure customarily incidental to a principal permitted use.
- (2) Public and private parking.
- (3) Signs. See Article **XIV**.
- (4) Essential services.
- (5) Child-care centers.

C. Conditional uses.

- (1) Assisted Living Facilities.

D. Supplemental regulations. In addition to the bulk requirements set forth in Schedule I, the following regulations shall apply to the OL-1 and OL-2 Zones:

- (1) A planted buffer, measured 100 feet deep from the property boundary, shall be provided within any OL-1 or OL-2 Zone along any lot line abutting a residential use or zone. The plant materials and the planting design shall be in accordance with criteria for such plantings in Article **VIII**.
- (2) Principal side and rear yard building setbacks shall apply as set forth in Schedule I where any OL-1 or OL-2 Zone abuts a residential use or zone. Principal side and rear yard building setbacks may be reduced to 50 feet along nonresidential boundaries.
- (3) A landscaped area of not less than 20 feet in depth shall be provided along all rights-of-way, except to allow for driveway access.
- (4) All yards that are not used for necessary drives, walks and permitted accessory uses shall be appropriately landscaped with trees, shrubs, flowers and grass lawns or other suitable ground cover as approved by the Planning Board.
- (5) There shall be no vehicular access to any use established in any OL-1 or OL-2 Zone from any street that primarily serves residential neighborhoods and is not an arterial street.

- (6) The maximum size of an undivided building or a building section which is offset from other building sections at least 20 feet shall not exceed 80,000 square feet of building coverage.
- (7) More than one principal building may be constructed in the OL-1 and OL-2 Zones, subject to all applicable regulations, and with a minimum distance between the adjacent buildings equal to the height of the taller of the two facing walls measured at the point where the buildings are closest, but not less than 20 feet.

§ 245-80. Office, Light Industrial/R-1 Residential Overlay Zone OL-2/R-1.

- A. Permitted principal and accessory uses. It is the intent within the OL-2/R-1 Zone to permit uses consistent with those permitted in the OL-2 Zoning District and to permit, as an alternative to OL-2 uses, the development of single-family detached homes on individual lots comprised of at least 10,000 square feet each. Permitted principal and accessory uses shall be as follows:
 - (1) All principal and accessory uses permitted in the OL-2 Zone; or
 - (2) As an alternative, single-family detached dwellings together with the accessory uses permitted in the R-1 Residential Zone.
- B. Bulk and design requirements and standards.
 - (1) For office and light industrial uses, the bulk regulations, restrictions and requirements shall be the same as for the OL-2 Zone, as enumerated in Article **X**, Zoning District Regulations, and all applicable schedules incorporated therein.
 - (2) For single-family detached dwellings, the bulk regulations, restrictions and requirements shall be the same as for the R-1 Zone, as enumerated in this chapter, and all applicable schedules incorporated therein, and the design development regulations, standards, restrictions and requirements, except that with respect to Block 116, Lots 2 and 3.03, 13 lots shall be developed, subject to the following provisions which shall apply:
 - (a) Rights-of-way not less than 40 feet wide where the applicant for Block 116, Lots 2 and 3.03, owns or controls only one side of the property abutting the right-of-way.
 - (b) Radius of cul-de-sac no less than 43 feet.
 - (c) Maximum floor area ratio (FAR): 25%, excluding garages and basements.
 - (d) Up to four lots may have lot depths less than 100 feet. In no event shall any lot have a lot depth of less than 70 feet.
 - (e) No additional or amended environmental impact study (EIS) shall be required where the number of lots sought to be approved as part of the subdivision of the applicant's property does not exceed the number of lots that has been the subject of any EIS previously submitted by the applicant in connection with an otherwise substantially similar subdivision application on the property within the past 24 months and where no substantial and material changes in the physical circumstances of the property have occurred in the interim that would reasonably require an updated EIS.
 - (f) Notwithstanding the provisions of this chapter), no sidewalks shall be required for the development of the subdivision of the applicant's property.
 - (g) Chapter 102, Article **VI**, Groundwater Management, shall be amended as follows: The following sections shall not apply where the applicant's property is developed for single-family houses: §§ 102-30A, B(1), (2) and (3) and 102-31, except that § 102-30A shall apply only for building footprints.
 - (h) Subdivision plan sheets, sized 30 inches by 42 inches, may be submitted instead of sheets sized 24 inches by 36 inches in order to depict the entire subdivision plan of the applicant's property on one sheet.

§ 245-81. Conservation Zone C.

- A. Conservation Zones C-1 and C-2 encompass certain Borough-owned parks and open space areas. It is intended that these areas be preserved as open space and be used for recreation and conservation of the following natural resources:
 - (1) Major existing or potential groundwater resources.
 - (2) Erosion-prone soils, especially in steep areas of 15% or more grade and where surface water sedimentation may occur.
 - (3) Ecologically important wetlands, which also serve as natural stormwater detention facilities.
 - (4) Woodlands which provide environmental and aesthetic benefits.
- B. No permanent building or structure shall be erected in a conservation zone except those structures deemed necessary by the Borough Council for recreational or environmental purposes or for the maintenance of the area.
- C. Conservation Zone C-1 as designated on the Borough Zoning Map.
 - (1) Permitted principal uses.
 - (a) Recreational uses that involve limited disturbance to the natural environment, including, but not limited to, walking, jogging, biking on designated biking trails, bird- watching, fishing, cross-country skiing, and sledding.
 - (b) Unpaved trails and puncheon-type boardwalks, approved by the Borough Council, and in accordance with the New Jersey Freshwater Wetlands Protection Act.
 - (2) Permitted accessory uses.
 - (a) Accessory uses normal and incidental to permitted principal uses, including signs, trash receptacles, benches and temporary or permanent structures as approved by the Borough Council.
- D. Conservation Zone C-2 as designated on the Borough Zoning Map.
 - (1) Permitted principal uses.
 - (a) All uses permitted in the C-1 Zone and recreational uses utilizing paved trails, playgrounds, tennis courts, athletic fields and other recreational facilities approved by the Borough Council.
 - (2) Permitted accessory uses.
 - (a) Accessory uses normal and incidental to permitted principal uses, including parking, signs, fences for safety, trash receptacles, benches and temporary or permanent structures, but excluding lighting except as allowed by Subsection **D(2)(b)** hereof, and sound systems except as allowed by Subsection **D(2)(c)** hereof as approved by the Borough Council.
 - (b) Lighting systems at Birchwood Lake and the Powerville tennis courts, lighting on walkways, parking areas and points of access, if necessary for safety.
 - (c) Amplified sound systems at the swimming area at Birchwood Lake and, if required for a specific event, wherever and whenever deemed appropriate by the Borough Council.
 - (3) Supplementary requirements for Conservation Zone C-2.
 - (a) To maintain Mountain Lakes' distinctive character and its blending of natural and man- made features, a natural vegetative buffer of 100 feet shall be provided between the edge of any land disturbance and contiguous residential properties. This natural vegetative buffer requirement shall not necessarily apply to uses and facilities existing prior to May 2002, but existing buffers

of 100 feet or less must be preserved. Subsurface utilities may be located within buffer areas.

§ 245-82. Office and Light Industrial Zone OL-1/Multifamily Affordable Housing Overlay.

A. Permitted principal, accessory and conditional uses.

- (1) As set forth under § 245-79.
- (2) Multifamily inclusionary development consisting of townhouses and/or multifamily dwelling units as permitted principal uses with a required set aside for low- and moderate-income households of 20% if such units are for sale and 15% if such units are for rent. 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.

B. Bulk and development standards.

- (1) For permitted uses other than multifamily inclusionary development, as set forth in this chapter for the OL-1 Zone.
- (2) For multifamily inclusionary development, as set forth below.
 - (a) Minimum lot size: three acres.
 - (b) Minimum lot frontage: 250 feet.
 - (c) Maximum density: 14 units per gross acre.
 - (d) Maximum building height: three 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 townhouse units in any building.
 - (k) There shall be no more than 16 units in any two-story multifamily building and no more than 24 units in any three-story building.
 - (l) The minimum distance between buildings shall be as follows:
 - [1] Windowless wall to windowless wall: 25 feet.
 - [2] Window wall to windowless wall: 30 feet.
 - [3] Window wall to window wall:
 - [a] Front to front: 75 feet.
 - [b] Rear to rear: 50 feet.
 - [c] End to end: 35 feet.
 - (m) Development shall maintain a minimum fifty-foot 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 50 feet of a front lot line or within 25 feet of any other lot line.
 - (o) Parking shall be provided in accordance with New Jersey Residential Site Improvement

Standards (RSIS).

§ 245-83. Office and Light Industrial OL-2/Multifamily Affordable Housing Overlay.

- A. Permitted principal, accessory and conditional uses.
- (1) As set forth under § 245-79.
 - (2) Multifamily inclusionary development consisting of townhouses and/or multifamily dwelling units as permitted principal uses with a required set aside for low- and moderate-income households of 20% if such units are for sale and 15% if such units are for rent. 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.
- B. Bulk and development standards.
- (1) For permitted uses other than multifamily inclusionary development, as set forth this chapter for the OL-2 Zone.
 - (2) For multifamily inclusionary development, as set forth below.
 - (a) Minimum lot size: three acres.
 - (b) Minimum lot frontage: 250 feet.
 - (c) Maximum density: 14 units per gross acre.
 - (d) Maximum building height: three 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 townhouse units in any building.
 - (k) There shall be no more than 16 units in any two-story multifamily building and no more than 24 units in any three-story building.
 - (l) The minimum distance between buildings shall be as follows:
 - [1] Windowless wall to windowless wall: 25 feet.
 - [2] Window wall to windowless wall: 30 feet.
 - [3] Window wall to window wall:
 - [a] Front to front: 75 feet.
 - [b] Rear to rear: 50 feet.
 - [c] End to end: 35 feet.
 - (m) Development shall maintain a minimum fifty-foot 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 50 feet of a front lot line or within 25 feet of any other lot line.
 - (o) Parking shall be provided in accordance with New Jersey Residential Site Improvement

Standards (RSIS).

Article XI. Bulk and Supplementary Zoning Requirements.

§ 245-84. General zoning provisions.

- A. Conformance to regulations. No land or premises shall be used and no building or structure shall be erected, raised, moved, extended, enlarged, altered or used for any purpose other than a purpose permitted herein for the zone district in which it is located, and all construction shall be in conformity with the regulations provided for the zone in which such building or premises is located.
- B. Permitted and prohibited uses. Permitted uses in each district shall be limited to those uses which are designated in this chapter as permitted principal uses, permitted accessory uses and/or conditional uses, as the case may be. All other uses shall be prohibited. The failure to specifically exclude any use from a zone district shall not, under any circumstances, be construed to permit any such use.
- C. Number of principal buildings. Except as provided for specifically in this Chapter, only one principal building may be erected on any one lot.

§ 245-85. Lot regulations and exceptions.

- A. Cul-de-sac turnarounds. The lot frontage for residential lots located at a cul-de-sac turnaround may be reduced to not be less than 50 feet, provided that the lot width at the building setback line shall meet the lot frontage requirement for the zone.
- B. In a residential zone, the shortest distance between the side lines shall not be less than 90% of the required frontage, except as set forth in **§ 245-85A** above.
- C. A corner lot shall be considered to have front yards on all streets.

§ 245-86. Yard regulations and exceptions.

- A. Lakefront exceptions.
 - (1) It is the intent of this subsection that the view of the lake afforded existing houses or principal buildings on lakefront property shall be maintained to the extent reasonably achievable, balancing the rights of all parties. Where there is a neighboring house or principal building on an adjacent property, the setback distance from the lake of any proposed new house, addition or accessory structure shall be no less than the setback of the neighboring house or principal building, or 25 feet, whichever is greater. Where there are neighboring houses or principal buildings, on each side, on adjacent properties, the new setback distance shall be no less than the setback of a line drawn between the setbacks of the neighboring houses or principal buildings, or 25 feet, whichever is greater. Where the adjacent property is Borough-owned property, the next adjacent neighboring house or principal building shall be used to establish the setback as described above. This provision shall not apply to accessory structures five feet or less in height.
 - (2) No structure shall be located within 25 feet of the shoreline of a lake, of the bank of a watercourse or within delineated wetlands.
- B. Front yard exception. Where there are two or more buildings preexisting in the block fronting on the same street, the front setback line of any new proposed building shall be, instead of the above specified distance for the appropriate zone, the average of the setback observed by the adjacent building to the left and the adjacent building to the right, or if the other buildings are all to the left or all to the right, then the average of the setbacks observed by the adjacent and the next adjacent buildings. If the adjacent property is vacant on one or both sides of the new proposed building, then the setback line shall be the average of the setback observed by the two nearest buildings, whether both lie to the left, to the right, or to either side, in both cases, exclusive of garages or any other accessory use structures, except that in no event shall the setback be less than the above specified distance for the appropriate zone. A building erected in a residential zone on a corner lot shall comply with the front setback requirement as

to all streets abutting such lot.

C. Minimum building envelope.

- (1) Building envelope required. For the purpose of ensuring that every lot to be used for single-family residential development will have sufficient area to reasonably allow the construction of the dwelling and associated improvements without encroachment on easements that restrict development or environmentally sensitive features, there shall be a minimum building envelope, rectangular in shape, free of such features in the R-AA, R-A, R-1, R-2, RC-2 and RC-3 Zones. The proposed building envelope must be created within the prescribed setback limits for the zone.
- (2) Building envelope minimum size. Every lot to be used for single-family residential development shall have a minimum building envelope, rectangular in shape, in accordance with the following schedule:
 - (a) R-AA Zone: 85 feet by 100 feet.
 - (b) R-A Zone: 85 feet by 50 feet.
 - (c) R-1 Zone: 55 feet by 70 feet.
 - (d) R-2 Zone: 55 feet by 50 feet.
 - (e) RC-2 (conventional): 85 feet by 50 feet.
 - (f) RC-3 (conventional): 85 feet by 50 feet.
- (3) The building envelope shall be free of:
 - (a) Easements that restrict development.
 - (b) Wetlands and wetland transition areas defined and delineated by the New Jersey Department of Environmental Protection (NJDEP).
 - (c) Slopes in excess of 15%.
 - (d) Open water bodies and watercourses.

D. Projections which extend over setback lines. The space between any setback line and its lot line shall be open and unobstructed except for:

- (1) The ordinary projections of window sills, belt courses, cornices, leaders and other similar ornamental or structural features which shall not project more than six inches.
- (2) Roof overhangs which shall not project more than three feet.
- (3) Bay windows which shall not project more than three feet and shall not have a support from grade to projection, provided that they are less than 1/3 of the area of the wall from which they project.
- (4) Balconies which shall not project more than three feet and shall not have a support from grade to projection.
- (5) Front and rear entrance stairs of not more than six feet in width along the wall of the building, nor projecting more than 10 feet from the wall, and subject to a ruling by the reviewing board. See "setback line" definition.

E. Pervious buffer. The first 2.5 feet from the rear and side property lines shall consist of pervious natural landscape. The purpose of the pervious buffer is to limit water runoff from driveways and other impervious surfaces of adjacent properties.

§ 245-87. Residential building height.

- A. In all residential zones, the building shall not exceed 2 ½ stories and 35 feet in height facing any street, nor three stories facing any other direction. A basement in which, in any elevation, the exposed distance from finished grade to the floor above exceeds six feet for 50% or more of the length of the elevation shall be considered a story only for the purposes of determining the number of stories in that elevation.

- B. The maximum average height of the nonstreet frontage building elevation shall be 38 feet. The nonstreet frontage average building height shall be measured as the vertical distance from the average finished grade along all nonstreet fronting building elevations, to the highest point of the roof, excluding chimneys. The average elevation shall be determined by taking measures at approximately ten-foot intervals, six feet from the building wall, and averaging them.
- C. The maximum change in average grade elevation from the original surface to the finished grade elevation along any wall of the building shall be three feet.
- D. Where the height of any building wall exceeds 35 feet, there shall be some type of architectural treatment of the building to minimize the visual impact of a high straight wall.

§ 245-88. Bulk incentives for contributing dwellings.

- A. Bulk incentives. In order to provide an incentive for the preservation of contributing dwellings within historic districts, the bulk requirements in the Borough Zoning Ordinance have been enhanced for existing contributing dwellings in historic districts that satisfy the eligibility requirements set forth in **§ 245-88C**. It is intended that properties containing contributing dwellings that satisfy the eligibility requirements will enjoy the full benefit of the bulk incentives, in lieu of the corresponding standard bulk requirements, for all purposes under the Borough zoning ordinance, including any improvements to the property unrelated to the contributing dwelling (including but not limited to accessory structures, garages, swimming pools, terraces and driveways) and for the purpose of determining the scope of any variances required by the property owner.
- B. Definitions. The following definitions shall be specifically applicable to this subsection **§ 245-88**.

BULK INCENTIVES

The modified bulk zoning requirements applicable to contributing dwellings satisfying the eligibility requirements set forth in **§ 245-88**.

BULK INCENTIVES EFFECTIVE DATE

With respect to any contributing dwelling, shall mean:

1. For all contributing dwellings that are described as a "Hapgood" or "Belhall" structure in the National Register of Historic Places Registration Form for the Mountain Lakes Historic District, August 11, 2012; and
2. For all other contributing dwellings, April 1, 2017.

COMPATIBLE

When used in connection with a component of an alteration of a contributing dwelling, shall mean the component is consistent or in keeping with the original structure or the existing structure. In order to be compatible, a component of an alteration is not required to be identical to components of the original structure or the existing structure. Being compatible includes both restoration and replacement of the original structural component.

EXISTING

When used in connection with a contributing dwelling or a component or feature of a contributing dwelling, refers to such dwelling as it existed on the bulk incentives effective date, including alterations deemed to have been made prior to the bulk incentives effective date pursuant to an approval granted under **§ 245-88C(5)**.

ORIGINAL

When used in connection with a contributing dwelling or a component or feature of a contributing dwelling, refers to such dwelling as it existed when originally constructed.

ORIGINAL STRUCTURE

When used in connection with a contributing dwelling, the structure as it existed when originally constructed.

PRIMARY STREET-FACING FACADE

For a contributing dwelling that has only one street-facing facade, the primary street-facing facade is such street-facing facade. For a contributing dwelling that has more than one street-facing facade, the primary street-facing facade will be the street-facing facade of the contributing dwelling with the greatest width, with the following exceptions:

1. If the contributing dwelling has a formal (or "front") entrance door in the street-facing facade facing the street that is also the street of the contributing dwelling's street address, the primary street-facing facade is the street-facing facade containing such entrance door; and
2. The owner of a contributing dwelling with multiple street-facing facades may designate another street-facing facade as the primary street-facing facade for that contributing dwelling, provided that the Committee or its administrative officer determines that such designation will better preserve the historic integrity of the contributing dwelling or the historic streetscape.

STREET-FACING FACADE

The principal facade of a contributing dwelling that 1) directly faces a street which abuts the property on which the contributing dwelling is located and which is actively used as a roadway for vehicular traffic by the public, and 2) is at an angle of 0° to 45° to the portion of such street that abuts the property. Contributing dwellings located on corner lots and "through lots" shall typically be considered to have two street-facing facades.

C. Bulk incentives eligibility requirements. Properties containing contributing dwellings will be eligible for the bulk incentives when all of the following conditions are satisfied with respect to any alterations (including proposed alterations) made to the contributing dwelling after the bulk incentives effective date, as defined in **§ 245-88B**

- (1) Street-facing facades. The alterations to any street-facing facade must be compatible with the existing or original structure, and in particular with respect to the primary street-facing facade:
 - (a) The proportion between the width and height of the alterations must be compatible with the primary street-facing facade of the existing or original structure.
 - (b) The proportions and relationships between doors and windows in the primary street-facing facade must be compatible with the existing or original structure.
 - (c) Any alterations consisting of side additions to the primary street-facing facade must have a minimum setback of 12 inches from the plane of the existing primary street-facing facade, and any associated roofline must have a minimum setback of 12 inches from the existing roofline.
 - (d) Exceptions.
 - [1] The following exceptions to the foregoing minimum setback requirements will be permitted where there is, as of the bulk incentives effective date, an existing side addition or side porch to the primary street-facing facade:
 - [a] An existing open-air porch that does not comply with the twelve-inch setback requirement may be enclosed within the existing plane of the porch,
 - [b] An existing side addition that does not comply with the twelve-inch setback requirement may be extended a further five feet to the side of the same plane as the existing side addition.
 - [2] All of the foregoing exceptions are subject to compliance with the overall modified bulk requirements.

- (2) Height and roof shapes. The height of the alterations must be compatible with the existing structure. The design of the roof and any dormers must be compatible with the existing roof and dormers. Any alterations must preserve the existing or original roof ridge, roof pitch and overhangs of the existing or original structure, and new or altered dormers must be compatible with the typical styles of dormers associated with the original structure.
- (3) Architectural details. Architectural details and materials must be incorporated as necessary to relate the new with the old and to preserve and enhance the character-defining features of the existing or original structure. Windows may be replaced as long as they contain real or simulated divided lights, grille patterns, sizes and shapes that are compatible with the typical style of windows associated with the original structure and otherwise comply with the requirements of this Subsection **C(3)**.
- (4) Retention of original structure. After completion of the alterations:
 - (a) One hundred percent of the existing primary street-facing facade width and height must be retained intact consistent with the other requirements of this § **245-88C**.
 - (b) At least 75% of the floor area of the original structure as it existed on December 31, 1938, must remain. Interior renovations and any restoration to match the original will not be deducted in determining compliance with the 75% requirement.
- (5) Approval of exceptions to bulk incentives eligibility requirements. An owner of a contributing dwelling may seek approval for past or future alterations made after the bulk incentives effective date that do not strictly comply with the bulk incentives eligibility requirements, provided that such alterations are compatible with the existing or original structure as determined by the Zoning Board of Adjustment, upon the recommendation of the Historic Preservation Committee, under its authority to decide special questions under N.J.S.A. 40:55D-70(b), provided that no special notice shall be required for such application. In connection with any application for approval under this subsection, the Committee may request that the applicant or its architect meet with the Committee to review the alterations that are the subject of the application and submit such documentation as the Committee reasonably requires in order to evaluate the application. Any proposed alterations that receive final approval under this subsection must be commenced within one year from the date of the final approval. Upon final approval of the application and completion of the alterations, the Committee will update any photographic records maintained in connection with this article to reflect the alterations as if they had been made prior to the bulk incentives effective date. Any alterations approved under this section shall be deemed for all purposes under this article, including the checklists and certifications required under § **245-88E(2)**, to have been made prior to the bulk incentives effective date.

D. Modified bulk requirements. The following modified bulk requirements will apply to properties containing contributing dwellings that satisfy the eligibility requirements set forth in § **245-88C**:

- (1) Limit on FAR:

Zone	Properties Containing Contributing Dwellings
R-AA	16%
R-A	21%

- (2) Limit on improved lot coverage:

Zone	Properties Containing Contributing Dwellings
R-AA	24%
R-A	30%

- (3) Minimum side setback (each side and combined total both sides):

Zone	Properties Containing Contributing Dwellings
R-AA	20 ft. minimum side setback; minimum total of 50 ft. both sides
R-A	20 ft. minimum side setback; minimum total of 50 ft. both sides

- (4) Grade plane calculations. A height variance shall not be required for an addition to a contributing dwelling in the event that the addition causes a change in the grade plane calculation, provided that the addition is at least one story lower than the adjoining portion of the preexisting structure.
- (5) Preexisting nonconforming setbacks and height:
 - (a) A property containing a contributing dwelling with a side setback of less than 20 feet as of the bulk incentives effective date that satisfies the eligibility requirements set forth in § **245-88C** will still be eligible for the bulk incentives, and will not require a variance solely with respect to such existing nonconforming side setback, provided that:
 - [1] After the completion of the alteration or improvement, the property complies with the requirement that there be a minimum total side setback of 50 feet on both sides; and
 - [2] The alteration does not result in an increase in the bulk of the portion of the contributing dwelling or any other structure or improvement within the existing nonconforming side setback.
 - (b) A property containing a contributing dwelling with a front or rear setback of less than the applicable minimum setback set forth in the zoning ordinance as of the bulk incentives effective date that satisfies the eligibility requirements set forth in § **245-88C** will still be eligible for the bulk incentives, and will not require a variance solely with respect to such existing nonconforming front and/or rear setback, provided that the alteration or improvement does not result in an increase in the bulk of the portion of the contributing dwelling or any other structure or improvement within the existing nonconforming front and/or rear setback.
 - (c) A property containing a contributing dwelling with a height (in stories or feet) in excess of the applicable maximum height set forth in the zoning ordinance as of the bulk incentives effective date that satisfies the eligibility requirements set forth in § **245-88C** will still be eligible for the bulk incentives, and will not require a variance solely with respect to such existing nonconforming height, provided that the alteration or improvement does not result in an increase in the portion of the contributing dwelling or any other structure or improvement that exceeds such maximum height.

E. Documentation and approval of bulk incentives eligibility.

- (1) Eligibility for bulk incentives will be determined by the Zoning Officer.
- (2) Whenever an applicant seeks Borough approval of a construction permit in reliance on the bulk incentives, or makes any other application to the Zoning Board of Adjustment or the Planning Board relying in whole or in part on eligibility for the bulk incentives, the applicant shall submit all of the following as part of the submission of the applicant's application:
 - (a) A fully completed checklist, available on the Borough website and by request from the Borough Zoning Officer, and certification from a New Jersey licensed professional architect that any alterations (including any proposed alterations) made to the contributing dwelling after the bulk incentives effective date comply with all of the requirements of § **245-88C** and that the architect is familiar with the publication entitled, "Historic Mountain Lakes - Restoration and Renovation Handbook." In order to enable access to the foregoing publication by certifying architects, the Committee shall publish such publication on its website and make physical copies of such publication available upon written request.
 - (b) In order to facilitate the Committee's periodic review of certifications made under this § **245-88C** pursuant to § **245-88G**, at least one additional complete copy of the applicant's application, including the checklist and certification required under § **245-88E(2)(a)**, shall be delivered to the Committee. The Borough shall modify all application checklists, including for construction permits or applications to the Zoning Board of Adjustment or the Planning Board, to include a requirement of confirmation and proof that this delivery requirement has been satisfied by the applicant.

- (3) If the Zoning Officer determines that, notwithstanding the submission of the checklist and certification required under § **245-88E(2)**, the applicant's application for a construction permit does not comply with the requirements of § **245-88C**, the Zoning Officer shall deny the application and provide the applicant with a written statement of the grounds for such denial.
 - (4) The applicant may appeal a denial of an application under § **245-88E(3)** to the Zoning Board of Adjustment following the procedures under the zoning ordinance applicable to denials of zoning permits generally. The applicant may combine such appeal with an application to the Zoning Board of Adjustment for a variance with respect to the standard regulations as set forth in Article III.
 - (5) The Planning Board or Zoning Board of Adjustment, as applicable, may also determine eligibility for bulk incentives in connection with any application for a subdivision involving a lot on which a contributing dwelling is located. Eligibility for bulk incentives shall be limited to the lot on which the contributing dwelling will be located after the subdivision and shall be determined using the procedures set forth in § **245-88E(2)**. Where the subject application for a subdivision does not involve any alterations to the contributing dwelling, eligibility for bulk incentives will be measured based on any alterations that have been made to the contributing dwelling after the bulk incentives effective date and prior to the date of the proposed subdivision.
- F. Requests for clarification. An applicant or architect may request clarification from the Zoning Board of Adjustment or Planning Board, as applicable, for a determination whether a given structure is eligible for the bulk incentives or whether a proposed alteration meets the eligibility requirements set forth in § **245-88E(2)** for the bulk incentives. The Committee will act in an advisory capacity in such requests to the Zoning Board of Adjustment or Planning Board. The Zoning Board of Adjustment or Planning Board shall render its decision no later than 60 days after the date a request is submitted.
- G. Review of certifications. In order to evaluate the effectiveness of the certification process required under § **245-88E(2)** in effectuating the purposes of this article, the Committee shall from time to time review applications that have been submitted in reliance on the bulk incentives and the accompanying checklists and certifications required under § **245-88E(2)** and may make recommendations to the Planning Board and Borough Council regarding potential revisions to this article based on the results of such review.
- H. Records relating to alterations to contributing dwellings.
- (1) Whenever a question arises, for purposes of this article, as to the condition of a contributing dwelling on the bulk incentives effective date, the applicant and the applicant's certifying architect shall have the burden of establishing what the condition of the contributing dwelling was on the bulk incentives effective date.
 - (2) In order to facilitate establishing what the condition of contributing dwellings was on the bulk incentives effective date, all applicable Borough departments will maintain copies, which may be in hard copy or digital format, of files relating to applications for construction permits relating to contributing dwellings and make such files available to prospective applicants and their certifying architects for inspection and copying upon request. In addition, the Committee may create and maintain a photographic record of contributing dwellings to be used in documenting the condition of contributing dwellings.

§ 245-89. Accessory uses and structures.

- A. General requirements for all accessory uses and structures.
- (1) All accessory uses and structures shall be included in computing improved lot coverage, except where indicated herein.
 - (2) No accessory structure or improvement shall be constructed unless and until a zoning permit has been issued and, except in the case of fences, either a construction permit or a certificate of occupancy or approval, as applicable, has been issued for the main use or structure to which it is accessory.

- (3) No accessory use, structure or improvement shall be permitted unless it is located upon the same lot as the main use or structure to which it is accessory; provided, however, that access driveways and/or parking facilities to serve uses within the R-AH Zone shall be permitted on any adjacent lot located in the R-A Zone, subject to Planning Board review and approval.
- (4) No private garage or other structure accessory to a dwelling in a residence zone shall be used or occupied for housing of persons or animals, except for where affordable accessory apartments are permitted per **Article XVIII** of this chapter, and shall be used only for the storage of automobiles, recreational vehicles, trailers, boats, and other household personal property owned by residents of the dwelling unless otherwise prohibited or regulated by ordinance or other applicable law.

B. Location of accessory uses and structures.

- (1) No accessory structure or improvement shall be located within the area of the front, side or rear yard setback requirements, except for a retaining wall as defined herein, a fence in accordance with **§ 245-89C**, or parking as provided in **Article XII**.
- (2) No accessory structure shall be located closer to a street line than the principal building on the lot, except a freestanding stone wall in accordance with **§ 245-89C(2)a**.
- (3) When any accessory structure, except a fence or wall, is attached to or is located within 10 feet of the principal building, it shall be considered a part of such building and as such shall comply with all regulations applicable to the principal building.

C. Fences and walls. Fences in excess of 18 inches in height shall constitute accessory structures, which are permitted in all zones. Such fences shall be subject to the standards set forth below.

(1) In Zones A, B, OL-1 and OL-2:

- (a) No fence is permitted in a front yard. No wall except a retaining wall as defined herein shall be constructed closer to a street line than the closest setback of the principal building.
- (b) In a side or rear yard, the maximum height of a fence shall be six feet and the fence need not conform to setback requirements.
- (c) No fence may be electrified or contain razor or barbed wire.

(2) In residential zones:

(a) No fence is permitted in a front yard, with the following exceptions:

- [1] Freestanding stone walls, using natural fieldstone and mortar, are permitted to a maximum height of 30 inches from finished grade. Stone piers not exceeding 24 inches by 24 inches by four feet zero inches high are permissible to act as anchors at the end of freestanding stone walls or can stand alone with no wall.
- [2] The natural fieldstone walls and piers are to be consistent with the general appearance of stone walls in the Borough of Mountain Lakes, installed on footings to meet minimum depth requirements for a structurally sound, freestanding wall.

(b) In rear or side yards, only the following fences are permitted:

- [1] A fence of durable material and of workmanlike construction, not more than six feet in height and conforming to setback requirements. Materials subject to sagging, warping or other distortion under normal usage shall not be considered as durable for the purposes of this subsection.
- [2] A swimming pool fence of a minimum height of four feet conforming to all state requirements and to all setback requirements.

(3) Fences around areas to be used solely to compost vegetation may be of wire construction suitable for the purpose and shall not be subject to setback requirements, provided they do not exceed four feet in height, eight feet in length on any side or 64 square feet in area, and no more than two are

provided on one lot.

- (4) Fences to protect gardening areas during growing and harvesting seasons may be of wire construction suitable for the purpose, but shall meet the other requirements of Subsection H(2)(b)[1] above.
- (5) Fences on lakefront property to protect against intrusion by geese and other unwanted waterfowl shall not exceed 24 inches in height, shall be of green wire, shall be temporary in nature except if part of a hedgerow, shall not be permanently anchored and shall be readily removable.

D. Dish antennas.

- (1) In residential zones, a dish antenna shall be permitted as an accessory use or structure under the following conditions:
 - (a) It shall be only on a lot that contains a principal structure and designed for use by the residents of the principal structure only, except where the townhouse option has been elected. No lot may contain more than one dish antenna. Only a receiving dish antenna is permitted.
 - (b) In the Residential RC-3 Zone where the townhouse option has been elected, only one dish antenna for common use is permitted per block of common wall houses. All other residential zone regulations apply.
 - (c) A ground-mounted dish antenna shall be subject to the following regulations:
 - [1] A dish antenna may be located only in a rear yard and shall meet all setback requirements.
 - [2] Any such antenna shall be a freestanding structure mounted on and attached to the ground by a concrete pad.
 - [3] No dish antenna shall have a diameter exceeding six feet nor extend above the ground more than eight feet.
 - [4] An antenna shall be made only of black or gray mesh.
 - [5] Every dish antenna shall be screened by evergreen plantings in order to minimize to the greatest extent possible noise and visibility from any adjacent property or street. Screening shall not be required to the southwest. Plantings may be waived if natural terrain and landscaping provide adequate screening. The five-year growth potential of any evergreen plantings to be used shall be considered when determining acceptable spacing and heights of such plantings.
 - [6] Power control and signal cables to or from the antenna shall be underground cable complying with applicable code requirements.
- (2) In Business Zones A and B and in OL-1 and OL-2 Zones, a dish antenna, for receiving purposes only, shall be permitted as an accessory use or structure, subject to Planning Board regulation, to ensure aesthetics and safety provisions compatible with the standards of the community.
- (3) A construction permit is required for any antenna installation. The fee shall be as specified in **§ 111-3B** of this Code.

E. Emergency generators. Generators for use during power outages on an emergency basis are permitted as accessory structures in all zones subject to the following bulk requirements:

- (1) Units must be installed in conformity with the property setbacks for the appropriate zone for the principal structure.
- (2) The sound output for the unit cannot exceed 70 db at 23 feet from the unit.
- (3) An improved lot coverage calculation is required for units installed on a pad over 12 square feet. Pads under 12 feet shall be exempt from this calculation.
- (4) Units installed in the front yard shall be surrounded by landscape screening.

- (5) The testing, cycling and maintenance of all units will be conducted between the hours of 8:00 a.m. and 8:00 p.m. to be consistent with the Noise Ordinance (§160-2).

§ 245-90. Regulations applicable to steep slope areas.

- A. Any property which is the subject of an application for development and which contains slope areas of 15% or greater (hereafter "steep slopes") shall include a slope disturbance analysis as part of any application for development. The slope analysis shall include the following information:
 - (1) A tabulation of the land areas within the following slope categories on the entire tract:
 - (a) 0 to 14.99%
 - (b) 15% to 19.99%
 - (c) 20% to 24.99%
 - (d) 25% or greater
 - (2) A tabulation of the land areas in the above listed slope categories within the building area that are proposed to be disturbed.
 - (3) Calculations showing the land areas of disturbance of each slope category within the building area as compared to the land area of slopes in each category on the entire tract. The maximum allowable slope disturbances within the building area as a percentage of land area in each slope category on the entire tract shall be as set forth in the following table:

Slope Category	Maximum Slope Disturbance
0 to 14.99%	100%
15% to 19.99%	30%
20% to 24.99%	10%
25% or greater	0%

- B. Within areas having slopes of 25% or greater, no development, including regrading or stripping of vegetation, shall be permitted unless such activity is essential for the construction of linear development such as a roadway or driveway crossing, required utility construction, stormwater management control pipes, drainage paths, swales or channels or other like necessary improvement. The applicant must demonstrate to the satisfaction of the reviewing board or other official having jurisdiction that such disturbance activity is necessary to fulfill the essential service requirements of the development and that there is no practical alternative to it.
- C. Land development plans which have received Planning or Zoning Board approval prior to the adoption date of this article shall be exempt. Proof of exemption eligibility shall be determined by the Zoning Officer.

§ 245-91. Like buildings.

- A. No construction permit shall be issued for the erection of any building for occupancy as a single-family detached dwelling if it is like or substantially like any neighboring building then in existence, or for which a building permit has been issued, in more than three of the following six respects:
 - (1) Height of the main roof ridge, or, in the case of a building with a flat roof, the highest point of the roof beams, above the elevation of the first floor.
 - (2) Height of the main roof ridge above the top of the plate; all flat roofs shall be deemed identical in this dimension.
 - (3) Length of the main roof ridge, or, in the case of a building with a flat roof, length of the main roof.

- (4) Width between outside walls at the ends of the building measured under the main roof at right angles to the length thereof.
- (5) Relative location of windows in the front elevation or in each of both side elevations with respect to each other and with respect to any door, chimney, porch, or attached garage in the same elevation.
- (6) In the front elevation both:
 - (a) Relative location with respect to each other of garage, if attached, porch, if any, and the remainder of the building; and
 - (b) Either the height of any portion of the building located outside the limits of the main roof, measured from the elevation of the first floor to the roof ridge, or, in the case of a flat roof, the highest point of the roof beams; or the width of such portion of the building, if it has a gable in the front elevation, otherwise length of the roof ridge or the flat roof in the front elevation.

B. Buildings shall be deemed to be like each other in any dimension with respect to which the difference between them is not more than two feet. Buildings between which the only difference in relative location of elements is end to end or side to side reversal of elements shall be deemed to be like each other in relative location of such elements. In relation to the premises with respect to which the permit is sought, a building shall be deemed to be a neighboring building if the lot upon which it or any part of it has been or will be erected is any one of the following lots, as shown on the Tax Map of the Borough:

- (1) Any lot on the street, upon which the building to be erected on such premises would front, which is the first or the second lot next along such street in either direction from the premises, without regard to intervening street lines;
- (2) Any lot on any part of the street line frontage of which is across the street from such premises or from a lot referred to in Subsection **B(1)** above;
- (3) Any lot on any part of the street line frontage of which faces the end of, and is within the width of, such street, if there are fewer than two lots between the premises and the end of the street;
- (4) Any lot on another street which adjoins such premises on such other street; or
- (5) Any lot on any part of the street line frontage of which is across such other street from the premises or from a lot referred to in Subsection **B(4)** above, provided that, notwithstanding any of the foregoing provisions of this section, no building shall be deemed to be a neighboring building in relation to the premises if its rear elevation faces the street upon which the building to be erected on the premises would front.

§ 245-92. Outdoor sales, display or storage.

- A. No yard or any other open area of any lot shall be used for the sale, storage or display of merchandise, wares, or personal property except as provided in this Chapter. Storage sheds shall not be considered outdoor storage, provided that all applicable zoning regulations are met. The following exceptions shall apply:
 - (1) Garage sales, yard sales, house sales, estate sales and estate auctions, provided that only the personal belongings and/or contents of the property owner's house are for sale.
 - (2) Nonprofit organizations which are located in the Borough.
 - (3) The sale event(s) shall not exceed a cumulative total of six days in a calendar year.
 - (4) The use of tents for any sales event shall not be allowed.
- B. Outdoor storage containers or trailers, including tractor-trailers, closed rolloff or shipping containers, or temporary portable storage containers such as PODS, shall be permitted on a site as follows:
 - (1) One (1) such container shall be permitted on a lot, for a period not to exceed thirty (30) days, or in the case of active construction projects, the time period during which the construction permit

remains open or one hundred and eighty (180) days, whichever is less.

- (2) Application shall be made to the Zoning Officer and include a survey, aerial image or plan, depicting the proposed location of the outdoor storage container on the site; information as to the nature and length of time of its location on the property; and remittance of all applicable fees. There shall be no fee associated with this application for single-family residential properties.
 - (3) The outdoor storage container shall be located on asphalt, concrete, or other impervious surface and shall not be located closer than 10 feet from any side or rear lot line or front right-of-way line.
 - (4) No outdoor storage container shall be located within the street, right-of-way, or in any location that would obstruct sidewalk access.
 - (5) The outdoor storage container shall be removed immediately upon expiration of the zoning permit or completion of the construction project. If applicable, no certificate of occupancy or approval shall be issued until the outdoor storage container is removed.
- C. Solid waste and recyclable items from all uses other than single-family homes, if stored outdoors, shall be placed in metal or plastic receptacles within a screened refuse area subject to the following minimum standards:
- (1) The screened refuse area shall not be located within any front yard.
 - (2) The area shall be surrounded by a fence or wall suitably landscaped to provide screening of the view of refuse from adjoining properties or public streets. Any such fence shall be exempt from the provisions of any Mountain Lakes ordinance regulating fences, except that no such fence shall exceed 10 feet in height.
 - (3) Design for screening of the refuse area shall be subject to the approval of the Construction Official.
 - (4) In any site plan, if outdoor storage is not proposed, the methods proposed for accommodating solid waste and recyclables within the structure shall be detailed on the plan. The Planning Board may require that a suitable outdoor area be set aside, but not improved, for a future refuse storage area.

§ 245-93. Wireless telecommunications facilities.

- A. This section implements Section 6409(a) of the Middle Class Tax Relief Job Creation Act of 2012 ("Spectrum Act") as interpreted by the Federal Communications Commission's ("FCC") Acceleration of Broadband Deployment Report and Order, which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.
- B. Wireless telecommunications facilities that do not meet the definition of "eligible facilities request" as set forth in this chapter shall be permitted in all zones as a conditional use and subject to the regulations at **§ 245-107.**
- C. An eligible facilities request that does not substantially change the dimensions of an existing wireless telecommunications facility shall comply with the following:
 - (1) Shall not increase the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, shall not increase the height of the structure by more than 10% or more than 10 feet, whichever is greater;
 - (2) Shall not involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (3) For any eligible support structure, it shall not involve installation of more than the standard number

of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure. It shall not entail any excavation or deployment outside the current site; it shall not defeat the concealment elements of the eligible support structure; or it complies with all conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in Subsections (1), (2), and (3) of this subsection.

- D. Type of review. The Borough Zoning Officer is the reviewing authority for eligible facilities requests involving no substantial change. The Borough Planning Board or Zoning Board may assist with review of such application to determine whether the application qualifies.
- E. Prior municipal approvals. Applications for eligible facilities requests involving no substantial change must confirm, to the Zoning Officer's satisfaction, that the existing tower or base station, and all existing wireless telecommunications facilities located thereon, are lawfully in existence, and have been previously granted all necessary municipal land use and development approvals.
- F. Time frame for review. Within 60 days of the date on which an applicant submits an application seeking approval under this section, the Zoning Officer shall approve the application unless it is determined that the application is not covered by this section.
- G. Tolling of the time frame for review. The sixty-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the applicant and the Zoning Officer's written consent, or in the cases where the application is deemed incomplete.
- H. To toll the time frame for incompleteness, the Zoning Officer must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application.
- I. The time frame for review begins running again when the applicant makes a supplemental submission in response to the notice of incompleteness by the Zoning Officer.
- J. Following a supplemental submission, the Zoning Officer will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The time frame is tolled in the case of second or subsequent notices pursuant to the procedures identified in this subsection. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- K. The Zoning Officer must memorialize his or her final decision by written approval or denial of the zoning permit application. The approval or denial must include a list of the plans and documents that comprised the application, with references to the dates, titles, and other descriptive features of those plans and documents.
- L. If the Zoning Officer determines that the applicant's request is not covered by the Spectrum Act as delineated under this section, the presumptively reasonable time frame under 42 U.S.C. 332(c)(7), as prescribed by the FCC, will begin to run from the issuance of decision that the application is not a covered request by the Zoning Officer.
- M. Removal of abandoned wireless telecommunications facilities. Any wireless telecommunications facility that has not operated for a continuous period of 12 months shall be considered abandoned. If there are two or more users of a single wireless telecommunications facility, then the abandonment shall not become effective until all users cease using the wireless telecommunications facility for a continuous period of 12 months. Unless the Council of the Borough of Mountain Lakes shall authorize continuance of an antenna on terms acceptable to the Council, the owner of the property shall remove same within

90 days of notice from the Zoning Officer that the wireless telecommunications facility is abandoned. If such wireless telecommunications facility is not removed within said 90 days, the Borough of Mountain Lakes may remove such wireless telecommunications facility at the owner's expense. If the facility is to be retained, the provider(s) shall establish that the facility will be reused within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. At the discretion of the Zoning Officer, upon good cause shown, the one-year reuse period may be extended for a period not to exceed one additional year.

§ 245-94. Cannabis establishments and uses prohibited.

The operation of all classes of cannabis establishments as defined by P.L. 2021, c. 16, including, but not limited to, cannabis retailers, cultivators, manufacturers, distributors, wholesalers, testing facilities, delivery services, medical cannabis dispensaries, alternative cannabis treatment centers, including such operators holding a medical cannabis dispensary permit pursuant to P.L. 2009, c. 307 (N.J.S.A. 24:61-7), are expressly prohibited uses within the jurisdictional boundaries of the Borough of Mountain Lakes.

Article XII. Off-Street Parking & Loading

§ 245-95 Off-street parking.

- A. Off-street parking shall be provided in accordance with the requirements of this section unless otherwise specified in this Chapter.
- B. The minimum dimensions of an off-street parking space shall be a rectangle 18 feet in length and 10 feet in width, except that the Planning Board may reduce the required width to not less than 8 1/2 feet when the proposed use warrants.
- C. Minimum off-street parking requirements for specific uses:

Use	Requirement
Adult day-care facility	1 space per 200 square feet of floor area
Assisted living residence	1 space per 2 beds
Banks, savings institutions	1 per 200 square feet of floor area
Child care center (in nonresidential area)	If the child care center is the principal use, parking shall be provided at 1 space for each employee plus 1 space for each 200 square feet of floor area
Child care center (in residential area)	1 for each employee and 1 for each car owned by the employer, subject to the exception provided under "home occupation"
Clubs	1 per 200 square feet of floor area plus 1 per 500 square feet of outdoor facilities.
Educational play center	1 space per 200 square feet of floor area
Health and fitness facility	1 space per 200 square feet of floor area
Home occupation	1 for each nonresident employee or visitor, not to exceed 3, and 1 for each car owned by a resident, except that a review by the Planning Board shall determine if adequate off-street parking can be provided within the residential character of the subject area
Hotel	1 space per guest room, plus 1 space per two seats in the restaurant/lounge and 1 space per 100 square feet devoted to ballroom or meeting space. The Planning Board may reduce the above parking requirement at its discretion subject to the applicant submitting a shared parking analysis demonstrating that a lesser number of parking spaces can adequately serve the development. The Planning Board may alternatively approve, in its discretion, a valet parking plan which can adequately accommodate activities at the development with a lesser number of parking spaces.
Indoor commercial recreation use	1 space per 200 square feet of floor area
Instructional schools and studios	1 space per 200 square feet of floor area
Light manufacturing	1 per 1,000 square feet of floor area
Nursing home	1 per 4 beds, plus 1 employee on maximum shift
Office:	
Business / General	1 per 250 square feet of floor area
Professional / Medical	1 per 200 square feet of floor area
Pet care and grooming facility	1 space per 200 square feet of floor area

Philanthropic institutions	Shall be determined by functional use most similar to that which is listed in this section.
Places of worship; Places of assembly	The greater of one (1) parking space per every three (3) seats or one (1) parking space per 1,000 square feet of floor area, whichever is greater.
Public and private schools	2 per elementary school classroom 1.5 per middle school classroom 2.5 per high school (secondary) classroom
Residences	Per RSIS
Restaurants	1 per 2 seats or 1 per 50 square feet of floor space
Retail sales or service	1 per 250 square feet of total floor space
Self-storage facility	1 space per 200 square feet of office area, plus 1 space per 5,000 square feet of storage/warehouse area
Service stations, automobile or gasoline	3 per bay, plus 1 per employee in the maximum shift or 1 per 125 square feet of building floor area, whichever is greater.
Swimming pools	1 per 30 square feet of pool surface
Tennis courts	6 per court
Townhouses	2.4 per dwelling unit

D. Off-street parking spaces shall be provided in the number required by Subsection C above, except that the Planning Board may, as part of a site plan approval, modify such requirements as follows:

- (1) Approve a site plan showing less paved area for parking than is required by this section, if any applicant can clearly demonstrate that, because of the nature of his operation or use, the parking requirements of this section are unnecessary or excessive; provided that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved for the purpose of meeting future off-street parking requirements in the event that a change of use of the premises shall make such additional off-street parking spaces necessary.
- (2) Increase the required minimum off-street parking requirement for a nonresidential use, based upon reasonable expectations as to the number of automobiles that a particular use may attract; and
- (3) Impose a maximum limitation on the number of off-street parking spaces based on the nature and character of the area in which the premises are located.

E. The requirements for uses not listed in Subsection C above shall be the same as for the most similar use which is listed. For mixed uses, the requirement shall be the total of the requirements for each use computed separately. Where no similar use is listed, the requirement shall be as determined by the Planning Board based upon recognized national parking standards, such as Urban Land Institute or Institute of Traffic Engineers.

F. Off-street parking facilities shall be provided on the same lot as the building to which they are accessory unless during site plan review and approval the Planning Board approves a convenient nearby location as an alternate.

G. The width of aisles providing direct access to off-street parking stalls shall be as follows:

Parking Angle (degrees)	Minimum Aisle Width (feet)
30°	12
45°	13
60°	18
90°	24

H. In nonresidential zones, off-street parking areas shall comply with the following minimum setback requirements:

Zone	Front Yard (ft)	Side Yard (ft)	Rear Yard (ft)
A	10	5*	0*
B	10	5	0
OL-1	20	50*	50*
OL-2	20	50*	50*
R-AH3 Overlay	20	20	125

* In the A Zone, a 10-foot parking setback shall be required where a side or rear yard adjoins a residential zone or use.

** In the OL-1 and OL-2 Zones, a 100-foot parking setback shall be required where a side or rear yard adjoins a residential zone or use.

- I. Off-street parking spaces for single-family residential uses may include garage areas as well as separate outdoor parking areas and driveways. Such spaces and driveways need not all have separate access but shall be distinctly delineated and maintained for the purpose and shall have a firm surface.
- J. Off-street parking facilities for other than single-family residential use shall be paved, drained, lighted and maintained in accordance with all pertinent Borough ordinances and regulations, and shall be arranged for convenient access and safety of pedestrians and vehicles subject to exceptions in cases of home occupations if approved by the Planning Board. Such facilities shall not be used for storage or other unrelated purposes.
- K. Off-street parking facilities for other than single-family residential use which are visible from a public street shall be screened from the street by planting or other means approved by the Planning Board.
- L. In no case shall there be kept in the open for more than 30 days any vehicle which cannot be operated on a public highway by reason of legal, mechanical or other restrictions.

§ 245-95 Off-street loading.

- A. Off-street loading. Every building utilized for commercial or industrial purposes or any other use involved in the receipt or distribution of merchandise, materials, or supplies, shall provide and permanently maintain off-street loading and unloading space. This shall not apply to such activities as personal service establishments, professional offices, business offices and similar uses, provided that these activities and uses can demonstrate that they do not normally send or receive any materials or supplies by means of large trucks or by tractor-trailer.
- B. Every use requiring off-street loading space shall provide such spaces at the side or rear of the principal building in accordance with the following schedule:

Square Feet of Floor Area	Minimum Number of Off-Street Loading Spaces
0 to 2,500	0
2,500 to 10,000	1
10,000 to 25,000	2
Each additional 20,000 or fraction thereof	1 additional

- C. Where required, each loading space shall measure at least 12 feet in width and 45 feet in length, and shall have a vertical clearance of at least 14 feet in height.

§ 245-97. Parking and storage of vehicles in residential zones.

- A. Parking of commercial vehicles. The daytime or overnight outdoor parking of any commercially licensed vehicle with a gross vehicle weight in excess of 6,000 pounds shall be prohibited in any residential zone except in the course of normal business with residents of the area.
- B. Parking and storage of recreational vehicles.

- (1) For the purpose of this subsection, the term "recreational vehicle" shall mean a boat; a boat or any other vehicle mounted on a trailer; an automobile trailer not affixed to a foundation; a non-self-propelled or self-propelled house trailer, camper or motorized home so constructed as to permit the occupancy thereof as a dwelling or sleeping place for one or more persons and having no foundations other than wheels, skids, jacks, or other similar device integral with or portable by such recreational vehicle.
 - (2) No recreational vehicle shall be stored or parked in any zone, or in and on any premises in any zone, except in accordance with, and as may be permitted by, Subsection **B(3)**, **(4)** and **(5)** herein and provided that any such recreational vehicle shall not be used as living quarters while stored or parked.
 - (3) Any recreational vehicle may be stored or parked as follows:
 - (a) In a garage or boathouse.
 - (b) Temporarily in the driveway of any premises for periods not to exceed 48 hours for purposes of loading and unloading and for emergencies.
 - (c) Temporarily at a motor vehicle service station for the purpose of necessary repairs.
- C. In addition to the provisions of Subsection **B(3)** above, any recreational vehicle which is five feet or less in height, excluding the mast in case of boats, and 20 feet or less in length, excluding the hitch in case of trailers, may be stored or parked as follows:
- (a) Where the side yard of any premises is, or exceeds, 15 feet, then to the rear of the front setback line of the main building on the premises.
 - (b) Where the side yard of any premises is less than 15 feet, then to the rear of the main building on the premises.
 - (c) Temporarily in the driveway of a resident owner of any premises by a guest of the resident provided that only one such vehicle is so parked at one time and that all such parking at any one premises shall not exceed 21 days in any one calendar year.
- (2) In addition to the provisions of Subsection **B(3)** above, any recreational vehicle which is nine feet or less in height but more than five feet, excluding the mast, in the case of boats, and 20 feet or less in length, excluding the hitch in case of trailers, may be stored or parked as follows:
- (a) In such a location on the premises, and to the rear of the front setback line of the main building on the premises, where the vehicle is or can be effectively screened, by natural vegetation if possible consisting of trees, shrubs or other plant life, from view from neighboring areas to the end that the vehicle as stored and parked on the premises shall not be clearly visible either from the street or from adjoining properties; provided that no vehicle shall be so stored or parked unless and until the Planning Board has approved both the proposed location and the actual or proposed screening of the vehicle on the premises.
 - (b) Any person desiring to so store or park a vehicle on premises as described in Subsection **B(5)(a)** shall submit a location and screening plan to the Planning Board for its review, consideration and approval. The Planning Board may modify such plan, require additional or substitute screening, and generally take such action as may be necessary to implement the foregoing. Without limitation, the Planning Board may also eliminate, reduce or modify any possible requirement of additional screening in the event that topographical or other natural features render unnecessary the planting of additional natural vegetation to implement the foregoing.
 - (c) Temporarily in the driveway of a resident owner of any premises by a guest of the resident, provided that only one such vehicle is so parked at one time and that all such parking at any one premises shall not exceed 21 days in any one calendar year.

§ 245-98. Electric vehicle supply/service equipment (EVSE) and make-ready parking spaces

- A. Purpose. The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:
- (1) Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
 - (2) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
 - (3) Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
 - (4) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.
- B. Definitions. See §245-3 for definitions related to EVSE and make-ready parking spaces.
- C. Approvals and permits.
- (1) An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
 - (2) EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in (1) above.
 - (3) All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
 - (4) The Zoning Officer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of the Borough of Mountain Lakes' land use regulations.
 - (5) An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the administrative officer, provided the application meets the following requirements:
 - (a) the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
 - (b) all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 - (c) the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
 - (6) An application pursuant to Section 5. above shall be deemed complete if:
 - (a) the application, including the permit fee and all necessary documentation, is determined to be

complete,

- (b) a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - (c) a one-time written correction notice is not issued by the Zoning Officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
- (7) EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
- (8) A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

D. Requirements for New Installation of EVSE and Make-Ready Parking Spaces

- (1) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
- (a) prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 - (b) within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 - (c) within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
 - (d) Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
 - (e) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- (2) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in (1) above shall:
- (a) Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - (b) Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - (c) Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - (d) Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
 - (e) Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
 - (f) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
 - (g) Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.

- (h) Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

E. Minimum Parking Requirements

- (1) All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to **§245-96C**.
- (2) A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
- (3) All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- (4) Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged, but shall not be required in development projects.

F. Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

- (1) Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
- (2) Installation:
 - (a) Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
 - (b) Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
 - (c) To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
 - (d) Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (3) EVSE Parking:
 - (a) Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.
 - (b) Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
 - (c) Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code. Signage indicating the penalties for violations shall comply with Section 5. below. Any vehicle

parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.

- (d) Private Parking. The use of EVSE shall be monitored by the property owner or designee.

(4) Safety

- (a) Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.
- (b) Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with the Borough's ordinances and regulations.
- (c) Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.
- (d) EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- (e) Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- (f) Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- (g) Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the Borough of Mountain Lakes shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

(5) Signs

- (a) Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- (b) All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
- (c) Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit

and shall comply with **(5)(b)** above.

(d) In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:

[1] Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;

[2] Usage fees and parking fees, if applicable; and

[3] Contact information (telephone number) for reporting when the equipment is not operating or other problems.

(6) Usage Fees. Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

Article XIII. Conditional Use Requirements.

§ 245-99. General provisions.

- A. A conditional use in a particular zone may be permitted by the Planning Board only after it has determined that the development proposal complies with the conditions and standards set forth in this chapter for the location and operation of such use and is found to be in harmony with the general purposes and intents of this chapter.
- B. A permit for a conditional use may be granted subject to such additional conditions and safeguards as may be deemed to be advisable and appropriate by the Planning Board.

§ 245-100. Home occupations.

- A. The provisions of this section apply to a home occupation as a conditional use, as defined in § **245-73C**.
- B. A sketch plan shall be submitted for Planning Board review. It shall be done to scale, with sufficient accuracy to permit discussion, and shall include lot frontage and depth, the location of all buildings, delineation of parking spaces, and name and location of all contiguous property owners. A general outline of the location of the work area shall be indicated either on the plan or in writing. In the event of any proposed alteration to any structure upon the premises which would change its residential character, or any proposed violation of any requirement of this section or of the off-street parking requirements at § **245-96**, a site plan shall be required.
- C. Conditional home occupations shall be subject to the following regulations:
 - (1) The principal use of the property must be as a residence, with the amount of the property used for the home occupation limited to a maximum of five hundred square feet or 1/3 of the square footage of all buildings on the property, whichever is smaller.
 - (2) The principal professional of any accessory home occupation shall reside on the premises.
 - (3) No home occupation shall employ more than two nonresident individuals.
 - (4) No home occupation shall use the premises as a place of business if its operation will require parking for more than three cars. See also § **245-96** for parking provisions for home occupations.
 - (5) No sign or other external evidence of the home occupation shall be permitted, except for an identification sign in accordance with § **245-114**
 - (6) It is the intent of this section that the residential character of buildings in residential zones be retained. No use or external modification to buildings and/or grounds that would violate this intent shall be permitted.

§ 245-101. Clubs

- A. Clubs permitted under this section shall exclude those where the chief activity is a service carried on as a business.
- B. Any club house or open terrace adjacent thereto, swimming area, handball, tennis and similar game areas, and any parking lot shall be located at least 50 feet from any residential lot.
- C. Use of the club and its facilities shall be such as not to create undue noise beyond the lot line.

§ 245-102. Public and private schools; places of worship; places of assembly; noncommercial recreation centers such as YMCAs; and philanthropic institutions.

- A. Minimum lot size: Two (2) acres.
- B. Minimum lot width: 200 feet
- C. Minimum side yard setback: 50 feet
- D. Minimum front yard setback: 75 feet
- E. Minimum rear yard setback: 50 feet
- F. Maximum floor area ratio: 0.20
- G. Maximum improved coverage: 40%
- H. Maximum principal building height: 2.5 stories / 35 feet. Building height shall be measured as the vertical distance from the average elevation of either the existing (original) or finished grade, whichever is lower, along all sides of the building to the highest point of the roof. The average elevation shall be determined by taking measurements at approximately ten-foot intervals, six feet from the building wall, and averaging them. Steeples, bell towers, chimneys and similar decorative vertical projections shall be permitted to exceed the maximum permitted building height limitation by up to 10 feet, so long as the base area or perimeter of the vertical projection does not exceed 5% of the roof surface of the principal building.
- I. Required planted landscaped buffer: 25 feet from all side and rear yard property lines. The planted buffer shall consist of either existing vegetation, new plantings, or a combination of existing vegetation supplemented with new plantings, in order to provide sufficient year-round screening.
- J. The subject lot shall have frontage on a State highway, County road, or a Major Street as identified in the Circulation Element of the Master Plan. All access (ingress and egress) shall be from one of the above-referenced road types.
- K. All required off-street parking spaces shall be provided on the same lot as the building to which they are accessory. No off-street parking shall be located within 25 feet of any lot line. All off-street parking areas shall be screened with a planted buffer in accordance with §245-16D(9), including in front yard areas, except where access driveways or pedestrian walkways are proposed to be located.

§ 245-103. Child care centers in residential zones.

- A. Child care centers shall be licensed under the New Jersey Child Care Center Licensing Law, N.J.S.A. 30:5B-1 et seq., and/or any other statutes and regulations as may from time to time apply.
- B. A center shall be located on a lot of not less than 15,000 square feet.
- C. Any outdoor play area shall meet the side and rear setback requirements of the zone, and shall be behind the front setback of the house or facility.
- D. In the event that the child care center is the home occupation of the owner of the property, the regulations for home occupation contained in **§ 245-100C(1), (3) and (4)** shall not apply.

§ 245-104. Cluster development.

- A. Cluster development shall be permitted as a conditional use in the Residential Zones RC-2 and RC-3 only, subject to the following criteria.
- (1) The minimum tract size shall be eight acres.
 - (2) The housing type shall be the same as permitted in the zone.
 - (3) The maximum number of lots to be permitted shall be arrived at by the applicant's submitting a sketch plat showing a conventional subdivision with the minimum lot sizes as indicated for each zone in Schedule I and with proper consideration given to the requirements in Chapters **102** and **202** as well as the steep slope requirements and other applicable requirements in this chapter.
 - (4) The minimum lot sizes in a cluster development shall be 10,000 square feet for the RC-2 Zone and a size that meets the requirement of a maximum of four dwelling units per acre in the areas to be developed in the RC-3 Zone.
 - (5) The minimum setbacks shall be as shown in Schedule I for the respective zones, except as permitted under the zero lot line option.
 - (6) The amount of open space shall be at least 20% of the total tract size but no less than two acres.
 - (7) The requirements in this chapter and Chapter **102** shall be met as applicable.
- B. Procedures for cluster development.
- (1) An application for a cluster development shall be accompanied by sketch plats showing a conventional subdivision and the proposed cluster development option indicating in general the plan and the area to be retained in open space or used for other common or municipal purposes.
 - (2) If, in the opinion of the Planning Board, the clustering option will assist in the achieving of the objectives in the Master Plan and the land use chapters, then the Planning Board shall request a tentative approval from the Borough Council that the open space resulting from the cluster development be accepted by the Borough. If, however, the Borough Council finds that it would not be in the best interest of the Borough to accept the open space as public open space, then the Planning Board may permit the applicant to submit a clustering plan with common open space in accordance with Subsection **D(2)** below.
 - (3) The procedures for preliminary and final plats for clustering developments shall be the same as required for major subdivisions in this chapter.
- C. Location and use of open space. The Planning Board shall have full authority to approve or disapprove the locations and proposed uses of open space. Lands required to be dedicated shall be so located as to meet the needs of open spaces, parks, playgrounds, rights-of-way and preservation areas protecting major streams and open drainageways, buffer areas and other environmental features, or to provide additional neighborhood area for recreational or school purposes.
- D. Disposition of open space.
- (1) Dedicated open space shall be deeded free and clear of all mortgages and encumbrances to the Borough, if the Borough Council accepts the land as public open space.
 - (2) Open space areas may, if the Planning Board and the Borough Council agree, be deeded free and clear of any encumbrances to a permanent property owner's association or cooperative for its use, control and management for common open space or common recreational use and providing appropriate restrictions to assure the effectuation of the purpose of this section. Such organization shall meet the following standards, to be written into the articles of incorporation or bylaws:
 - [1] It shall not be dissolved and shall not dispose of any open space, by sale or otherwise, without first offering to dedicate the same to the Borough. If the Borough refuses the offer, the open space may then be disposed of only to another organization conceived and established to own and maintain the open space for the benefit of such development.

[2] Failure to maintain.

- [a] In the event that such organization fails to maintain the open space in reasonable order and condition, the Borough may serve written notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition. Such notice shall include a demand that such deficiencies of maintenance be cured within 35 days thereof and shall state the date and place of a hearing thereon, which shall be held within 15 days of the notice. At such hearing the Borough may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time, not to exceed 65 days, within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof are not cured within the specified 35 days, or any permitted extension thereof, the Borough, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land.
 - [b] Before the expiration of the year, the Planning Board shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days' written notice to such organization and to the owners of the development, to be held by the Planning Board, at which hearing such organization and the owners of the development shall show cause why such maintenance by the Borough shall not, at the election of the Borough, continue for a succeeding year. If the Borough determines that such organization is ready and able to maintain such open space in reasonable condition, the Borough shall cease to maintain the open space at the end of the year.
 - [c] If the Borough determines such organization is not ready and able to maintain such open space in a reasonable condition, the Borough may, in its discretion, continue to maintain such open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the Borough shall constitute a final administrative decision, subject to judicial review.
- [3] The cost of such maintenance by the Borough shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space, in accordance with assessed value at the time of imposition of the lien, and shall become a lien and tax on the properties and be added to and be a part of the taxes to be levied and assessed thereon and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

§ 245-105. Zero lot lines options.

Zero lot line (ZLL) design is a permitted conditional use as a design option in the RC-2 and RC-3 Zones subject to the conditions below:

- A. A zero lot line development is here defined as a subdivision where the principal buildings are placed at a setback distance of one inch from parallel side lot lines.
- B. A zero lot line development shall meet the following conditions:
 - (1) The lot adjacent to the zero setback side yard shall be under the same ownership as the ZLL lot at the time of initial construction and shall have the same size side yard toward the ZLL lot as the larger side yard in the ZLL lot.
 - (2) The side yard setback shall be either one inch or 20 feet in a clustered RC-2 or RC-3 Zone and 40 feet in a conventional RC-2 or RC-3 Zone.
 - (3) The wall on the zero setback side shall be without windows or other openings and shall be constructed of maintenance-free masonry without projections over the property line.
 - (4) The opposite side yard setback of not less than 10 feet shall be kept perpetually free of permanent

obstructions.

(5) A four-foot maintenance easement shall be created along the zero setback wall.

C. The minimum lot width in a zero lot line development may be reduced to 80 feet in an RC-3 Zone.

§ 245-106 Townhouse option in the RC-3 Zone.

Townhouses in a cluster development design shall be permitted as a conditional use in the RC-3 Zone, subject to all applicable regulations in this chapter, a review by the Planning Board and the following conditions:

- A. The minimum tract size shall be 10 acres.
- B. The maximum number of dwelling units shall be determined by the Planning Board, based on applicable criteria in this chapter, the site characteristics, environmental features and the objective that the number of people and the traffic volumes as estimated shall not exceed the corresponding numbers for a conventional development as permitted on the same tract. The maximum number of dwelling units shall not exceed 1.75 times the number of units allowed in a conventional development.
- C. The minimum amount of open space, as defined, excluding dry surface water detention facilities, shall be at least 30% of the total tract size, but no less than three acres.
- D. The bulk requirements shall be determined by the Planning Board, with consideration given to the environmental character of the site and the neighborhood, the type of proposed housing, the overall design of the development, the general health, safety and welfare of the residents and the following guiding requirements:
 - (1) The minimum lot size for any townhouse unit shall be 2,250 square feet and the minimum average lot size shall be 3,125 square feet.
 - (2) The minimum width for any townhouse unit shall be 18 feet and the minimum average unit width shall be 23 feet.
 - (3) The minimum lot depth for any townhouse unit shall be 125 feet.
 - (4) The minimum front setback shall be 30 feet.
 - (5) The minimum rear setback shall be 30 feet.
 - (6) The minimum side setback of an end unit shall be 20 feet, except that where an end unit abuts a street, the side setback shall be 30 feet.
 - (7) The maximum height shall be 2 1/2 stories, but no greater than 35 feet.
 - (8) The maximum number of dwelling units in any building shall be six, except that not more than two buildings may be permitted to contain eight dwelling units, provided that the total number of dwelling units does not exceed the maximum allowed in Subsection H(2).
 - (9) Each pair of townhouse units shall be offset from the adjacent pairs by at least five feet. Variation shall be used in building plans for and in the construction of contiguous townhouse dwelling units in terms of design so as to present reasonable and aesthetically desirable variations in the elevation, location, design and appearance of the units.
 - (10) The minimum distance between main walls of buildings shall be:
 - (a) Side to side: 40 feet.
 - (b) Rear to rear: 100 feet.
 - (c) Side to rear or front: 50 feet.
 - (11) There shall be a forty-five-foot buffer along the boundaries of the tract to shield activities from the neighboring properties. This buffer shall include natural vegetation and landscaping, including evergreens, as determined by the Planning Board, and shall be designated open space..

- (12) Parking shall be provided with at least 2.4 parking spaces per townhouse unit. Two parking spaces shall be provided on each townhouse lot, one of which shall be in a garage and the remainder in other off-street locations such as the driveway. The Planning Board shall have the power to approve a site plan showing less paved area for parking than is required by this section, provided that a landscaped area of sufficient size to meet the deficiency shall be set aside and reserved to meet future needs.
- (13) The right-of-way and pavement widths for streets shall be determined by the Planning Board so as not to create excessive pavement or unnecessary removal of vegetation.
- (14) No addition or extension may be constructed on the outside of the original building, except for a patio or deck in the rear yard, no greater in depth than 15 feet, measured from the wall of the building. Such patio or deck may encroach five feet into the rear setback. A property divider accompanying a patio or deck for the purposes of privacy may not encroach upon the setback.
- E. Each tract in an RC-3 Zone shall have access to the surrounding road system at two locations. One of these two locations shall be for emergency access only.
- F. Walkways and bikeways shall be provided to create interior connections to other neighborhoods and shall be constructed as required by the Planning Board based upon recommendations from other concerned public bodies.
- G. A homeowners' association, with bylaws approved by the Planning Board and the Council, shall be formed to handle matters of common interest to the homeowners, such as the appearance and maintenance of grounds and buildings. The Borough and the homeowners' association shall have all the powers and duties prescribed in N.J.S.A. 40:55D-43.

§ 245-107. Wireless telecommunications facilities.

- A. Applicability. The following conditional use standards shall apply to all wireless telecommunication facilities that do not meet the definition of “eligible facilities request” as defined in this chapter.
- B. Location priority. Upon showing that a wireless telecommunications facility is needed for the provision of adequate service in the Borough of Mountain Lakes, said facility shall be permitted as a conditional use at the following prioritized locations:
 - (1) The first priority location shall be collocation on existing wireless telecommunications facilities;
 - (2) The second priority location shall be on existing structures owned by the Borough of Mountain Lakes, with the consent of the Borough, and if a structure is not suitable or available, lands owned by the Borough of Mountain Lakes, with the consent of the Borough;
 - (3) The third priority location shall be on lands located in the B Business Zone as identified in the Borough of Mountain Lakes Zone Map but no closer to any residential zone or residential use than 300 feet;
 - (4) The fourth priority location shall be on lands located in the OL-2 Office, Light Industrial Zone as identified in the Borough of Mountain Lakes Zone Map, but no closer to any residential zone or residential use than 300 feet; and
 - (5) The fifth priority location shall be on lands located in the OL-1, Office, Light Industrial Zone as identified in the Borough of Mountain Lakes Zone Map, but no closer to any residential zone or residential use than 300 feet.
- C. If a wireless telecommunications provider seeks to place a wireless telecommunications facility on a lot that is located in a priority level other than the first priority location, the provider must establish that the priority locations prioritized ahead of the location in which the lot is located are either not available or not suitable for the provision of adequate wireless telecommunications services within the Borough of Mountain Lakes as provided in the Telecommunications Act of 1966 (47 U.S.C. § 332).

- D. All wireless telecommunications facilities shall be located to minimize visual impacts on the surrounding area in accordance with the following standards. In applying these standards, locations in a higher priority category under Subsection B shall be deemed more acceptable than lower priority sites.
- (1) Sites for wireless telecommunications facilities must demonstrate that they provide the least visual impact on residential areas and public ways. All potential visual impacts must be analyzed to illustrate that the selected site provides the best opportunity to minimize the visual impact of the proposed facility.
 - (a) Wireless telecommunications equipment facilities should be located to avoid being visually solitary or prominent when viewed from residential areas and the public way. The facility should be obscured by vegetation, tree cover, topographic features and/or other structures to the maximum extent feasible.
 - (b) Wireless telecommunications facilities shall be placed to ensure that historically significant structures, views, streetscapes and landscapes are protected. The views from architecturally and/or historically significant structures should not be impaired or diminished by the placement of telecommunications facilities.
- E. Site design standards.
- (1) Collocation. Any ordinance limitation on the number of structures on a lot shall apply except for wireless telecommunications facilities located on a lot with buildings or structures already located on it.
 - (2) Security fencing. Wireless telecommunications facilities shall be enclosed by security fencing not less than six feet in height and shall be equipped with appropriate anti-climbing devices. Additional safety devices shall be permitted or required as needed by the Planning Board.
 - (3) Landscaping. Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining private properties and public right-of-way. Required front yard setback areas shall be landscaped. All wireless telecommunications equipment facilities shall be screened by an evergreen hedge eight to 10 feet in height at planting time.
 - (4) Signs. Signs shall not be permitted except for a single sign displaying owner contact information, warnings, equipment information and safety instructions. Such signs shall not exceed two square feet in area. No commercial advertising shall be permitted. Only the minimum number of signs shall be permitted.
 - (5) Color. Wireless telecommunications facilities shall be of a color appropriate to the tower's locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration.
 - (6) Dish antennas. Dish antennas shall be colored, camouflaged or screened to make them as unobtrusive as possible, and in no case shall the diameter of a dish antenna be in excess of that which is reasonably needed for the intended purpose but in no event in excess of six feet.
 - (7) Lighting. No lighting is permitted except as follows:
 - (a) Wireless telecommunications equipment facilities enclosing electronic equipment may have security and safety lighting at the entrance, provided that the light is attached to the facility, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes; and
 - (b) No lighting is permitted on a wireless telecommunications tower except lighting that specifically is required by the Federal Aviation Administration, and any such required lighting shall be focused and shielded to the greatest extent possible so as not to project towards adjacent and nearby properties.
 - (8) Monopole. Any proposed new telecommunications tower shall be a "monopole" unless the applicant can demonstrate that a different type pole is necessary for the collocation of additional antennas on

the tower. Such towers must employ camouflage technology to the greatest extent feasible and as agreed to by the Borough.

- (9) Noise. No equipment shall be operated so as to produce noise in excess of the limits set by the local noise ordinance, except for in emergency situations requiring the use of a backup generator.
- (10) Radio frequency emissions. Applicants shall provide current FCC information concerning wireless telecommunications facilities and radio frequency emission standards. Wireless telecommunications facilities shall be required to provide information on the projected power density of the proposed facility and how this meets the FCC standards.
- (11) Structural integrity. Wireless telecommunications facilities must be constructed to the Electronic Industries Association/Telecommunications Industries Association 222 Revision F Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended.
- (12) Maintenance. Wireless telecommunications facilities shall be maintained to assure their continued structural integrity and site plan, which includes landscaping. The owner of the wireless telecommunications facility shall also perform such other maintenance of the structure and of the site as to assure that it does not create a visual nuisance.
- (13) Interference. Interference studies must be conducted to insure local emergency R/Frequency transmissions are not interfered with.
- (14) Quarterly report. A quarterly maintenance report is required to the Borough Construction Code Official indicating maintenance and ownership.

F. Collocation policy.

- (1) The Municipal Engineer and the Borough Clerk/Administrator shall maintain an inventory of existing wireless telecommunications facilities locations within and near the Borough of Mountain Lakes.
- (2) An applicant proposing a wireless telecommunications facility at a new location shall demonstrate that it made a reasonable attempt to find a collocation site acceptable to engineering standards and that none was practical or economically feasible.
- (3) Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen. The analysis shall address the following issues:
 - (a) How the proposed location of the wireless telecommunications facilities relates to the objective of providing adequate wireless communications services within and near the Borough of Mountain Lakes;
 - (b) How the proposed location of the proposed wireless telecommunications facility relates to the location of any existing antennas within and near the Borough of Mountain Lakes;
 - (c) How the proposed location of the proposed wireless telecommunications facility relates to the objective of collocating the antennas of many different providers of wireless communications services on the same wireless telecommunications facility; and
 - (d) How its plan specifically relates to and is coordinated with the needs of all other providers of wireless communications services within and near the Borough of Mountain Lakes.
- (4) The Planning Board or Board of Adjustment may retain technical consultants as it deems necessary to provide assistance in the review of the site location alternatives analysis; the service provider shall bear the reasonable cost associated with such consultation, which cost shall be deposited in escrow.

G. Anything herein notwithstanding, a wireless telecommunications facility may exceed the area, height and yard requirements of the district in which it is located, provided that it shall satisfy the conditional

use requirements as set forth in this section. The following requirements shall also apply; however, inability to comply with the following provisions shall not be considered to be a violation of a conditional use standard, but shall instead be considered a violation of a bulk standard to be reviewed pursuant to N.J.S.A. 40:55D-70(c)

(1) Height.

- (a) Where permitted, wireless telecommunications towers and antennas may exceed the maximum building height limitations, provided that the height has minimal visual impact and is no greater than required to achieve service area requirements and potential collocation within the Borough of Mountain Lakes.
- (b) Wireless telecommunications equipment facilities shall be subject to the minimum height restrictions of the zoning district in which they are located.

(2) Setback.

- (a) Telecommunications towers and antennas shall have a setback equal to the height of the tower or antenna.
- (b) Wireless telecommunications equipment facilities shall be subject to the minimum bulk and height requirements of the zoning district in which they are located.

§ 245-108. Assisted living facility.

- A. Shall not limit residence to persons of a certain age.
- B. Ten percent of the total bed compliment shall be set aside as affordable Medicaid beds, which meet the criteria of N.J.A.C 5:93-5.16
- C. Dwellings constructed for low- and moderate-income households shall be governed by thirty-year deed restrictions (see N.J.A.C 5:93-5.16) ensuring long-term affordability controls in accordance with Article **XVII** of this chapter.
- D. The development, unit distribution and marketing of all housing constructed for low- and moderate-income households shall be undertaken consistent with the rules and regulations of the New Jersey Uniform Housing Affordability Controls, the provisions of Article **XVII** of this chapter, and N.J.A.C. 5:93-5.16, as may be applicable.
- E. Site design conditions.
 - (1) A buffer measuring 125 feet deep shall be provided along any lot line that abuts the RC-3 Residential Zone. Within the 125 feet, a one-hundred-foot planted buffer of trees shall be provided along with a twenty-five-foot roadway.
 - (2) Density shall be 15.5 dwelling units per gross acre with a maximum of 90 units; however, in no event shall the total number of beds exceed 120.
 - (3) A tree survey, tree preservation plan and an arborist on-site during the construction period. The tree preservation plan shall be developed in consultation with the Shade Tree Commission and designed to assure that all construction meets the intent of Chapter **102**, Article **VII**, of the Mountain Lakes Preservation and Protection of Trees Code to the maximum extent practicable.
 - (4) All new structures shall be set-back a minimum of 150 feet (inclusive of minimum yard set-backs for R-AH3 District) from any adjacent parcels located in a residential district.
 - (5) Site and a building light shall conform to the following:
 - [1] All lighting fixtures must be shielded and conform to the International Dark-Sky Association;
 - [2] Maximum mounting height of all lighting fixtures shall be 12 feet;
 - [3] No flashing, laser, searchlight, strobe, tracing, pulsating, or neon exterior lighting is permitted;

and

- [4] The illumination generated by all site and building lighting shall be minimized (recommended maximum of 0.5 footcandles or as determined to be appropriate by the Planning Board as part of site plan review).

§ 245-109. Hotels

- A. The minimum lot size shall be 2.5 acres.
- B. The maximum building height shall be three stories/40 feet for a flat-roof building and three stories/45 feet for pitched roof building.
- C. The minimum lot frontage along Route 46 shall be 200 feet.
- D. Ancillary facilities/amenities, including a restaurant/lounge, meeting facilities and ballroom space(s), shall be permitted.
- E. The architectural design shall incorporate the following: vertical and horizontal articulation of the building facades; changes in facade plane, size and rhythm of window spacing and surface material and pattern; and a contrasting roofline.

§ 245-110. Gasoline station; automobile service stations

- A. No hammering, welding, or painting repair work on cars shall be permitted or other work of the type usually conducted by and at automobile body shops in repairing damaged motor vehicles.
- B. A gasoline station or automobile service station may also include a retail business, in which case the minimum lot size shall be 1.5 acres.
- C. The minimum lot frontage requirement shall be 200 feet.
- D. All pumps, islands and canopies serving to protect customers while fueling shall be located a minimum of 40 feet from any street line and a minimum of 30 feet from any other lot line. Canopies, pumps and islands shall be considered accessory structures and not a second principal structure.
- E. Where a retail business is proposed, a minimum of one off-street parking space shall be provided for every 125 square feet of building floor area in addition to the requirements set forth at § 245-96.
- F. All lifts, greasing racks and other similar equipment shall be within the building.
- G. The underground storage of petroleum products shall meet the most stringent federal and state codes, as applicable, to protect the Borough's groundwater resources. Gas, fuel and other oil tanks which have been in disuse for more than one year shall be reinspected and certified prior to reuse. A gasoline station or automobile service station shall comply with Chapter 102 of the Revised General Ordinances of the Borough of Mountain Lakes.
- H. Motor vehicles may be parked upon the lot but only insofar as reasonably incident and accessory to the operation of an automotive service station and only in such a manner and location which neither interferes with ingress and egress to the premises nor creates any hazardous condition. No storage of motor vehicles, and no unsightly accumulation of vehicles or parts thereof, shall be permitted.
- I. No banners, pennants, moving or fixed display devices, or other items of an advertising nature shall be erected on the lot or affixed to the exterior of the building or any improvement on the lot, with the exception of signs authorized by Article XIV.

§ 245-111. Drive-in restaurants; restaurants with drive-through facilities

The following conditional use standards shall be applicable to drive-in restaurants or restaurants with drive-through facilities where food or drink is served to customers in vehicles at a drive-through window:

- A. The pick-up window shall be located on the side or rear of the building to limit visibility from the primary road frontage.

- B. No driveway shall open upon a public street within 150 feet of an intersecting public street, measured from the intersection of the tangents of the adjacent curblines.
- C. One off-street parking space shall be provided for every two seats.

§ 245-112. Self-Storage Facilities

- A. Self-storage facilities shall be at least two stories in height and no more than three stories in height and shall be designed architecturally to incorporate features typical of new multifamily residential or office building construction, including but not limited to facade articulation and materials treatment. The maximum height of a self-storage facility shall be 35 feet for a flat-roof building and 40 feet for a pitched roof building.
- B. The minimum frontage requirement shall be 200 feet.
- C. The only activities permitted in individual storage units shall be the rental of the unit and the pickup and deposit of goods and/or property in dead storage. Storage units shall not be used for the following activities:
 - (1) Residences, offices, workshops, studios, or hobby or rehearsal areas.
 - (2) Manufacturing, fabrication, or processing of goods; service or repair of vehicles, engines, appliances or other electrical equipment; or any other similar activities.
 - (3) Conducting retail sales of any kind, including garage or estate sales or auctions, or any other commercial activity; provided that the operator of the self-storage unit may conduct a sale or otherwise liquidate the contents of any storage unit to satisfy and settle an account of unpaid rent or other charges, through public or private sales, in a manner provided by law.
 - (4) Storage of flammable, perishable or hazardous materials or the keeping of animals.
- D. The rental of trucks, trailers or moving equipment, as well as the installation of trailer hitches, shall be prohibited.
- E. Sale of boxes or packing materials shall be permitted, but only if accessory to the self-storage facility.
- F. Self-storage facilities shall not operate or allow tenant access between the hours of 12:00 midnight and 6:00 a.m.
- G. All goods and property in a self-storage facility shall be stored in an enclosed building. No outdoor storage of any kind, including but not limited to storage of boats, RVs, vehicles, trailers or similar vehicles, or storage in outdoor storage pods or shipping containers, shall be permitted.
- H. All storage units above grade and all storage units visible from residential areas shall gain access from the interior of the building(s) only; no unit doors, loading bays, or docks may face or be visible from any adjacent residential areas.
- I. Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units. Lighting fixtures and switches shall be of a secure design that will not allow tapping such fixtures for other purposes.

§ 245-113. Sexually Oriented Establishments

Sexually oriented establishments shall be permitted as a conditional use in the B Zone only, subject to all applicable regulations in this chapter, a review by the Planning Board and the following conditions:

- A. The establishment shall be located at least 500 feet from the boundary of any residential zone within the Borough of Mountain Lakes and from any existing and/or approved but not yet existing house of worship, day-care center and school.
- B. In order to avoid a concentration of sexually oriented establishments, such establishment shall be located at least 1,000 feet from any other existing and/or approved but not yet existing sexually oriented

establishment.

- C. The foregoing distance limitations shall be measured by a straight line drawn from the nearest point of the lot boundary on which the proposed use is to be located to the nearest point of the lot or district boundary, as the case may be, of the other use or district, and those uses, district boundary lines and dimensions shall be indicated on the submitted site plan.
- D. The building housing the sexually oriented establishment shall have a minimum front setback of 75 feet and a minimum side or rear setback of 25 feet. The building and associated parking area shall be surrounded by a perimeter landscape buffer of at least 20 feet in width, consisting of landscape plantings designed and installed to the satisfaction of the Planning Board.
- E. Every sexually oriented establishment shall be located in a single-occupant, freestanding building.
- F. No sexually oriented establishment shall be permitted in a building having a capacity to accommodate 50 or more occupants.
- G. Off-street parking requirements for a sexually oriented establishment are one space for every 200 square feet of gross floor area or portion thereof, plus one space for each employee, provided that a minimum of 10 parking spaces shall be provided.
- H. All other requirements of this chapter including but not limited to the business zone requirements, shall be met.

Article XIV. Signs.

§ 245-114. Purpose; Definitions

- A. Purpose. The design, construction, location and maintenance of all signs in the Borough shall be regulated and controlled as provided for in this subsection.
- B. Definitions. The following words in this subsection shall be defined as follows (see also § 245-3):

FUNCTIONAL SIGN DEFINITIONS

BUSINESS SIGN

A sign which advertises or otherwise directs attention to a business or businesses conducted, the commodities or services manufactured, offered, or sold or entertainment offered upon or from the premises upon which such sign is located.

CONSTRUCTION SIGN

A temporary sign on premises where construction or remodeling is taking place, during the period of such construction, identifying the person, firm or business (such as but not limited to architects, engineers, contractors, or similar professionals) directly connected with the structure or project.

DIRECTIONAL SIGN

A sign or device intended to direct or point toward a place or which gives verbal directions, including traffic direction signs.

GENERAL ADVERTISING SIGN

A sign which advertises a business, product or service conducted, sold or offered elsewhere than upon the premises upon which such sign is located. A billboard shall be considered a type of General Advertising Sign.

IDENTIFICATION SIGN

A sign which designates the name of the owner or occupant of the premises upon which it is located or which identifies the premises; this shall include nameplates.

NONCONFORMING SIGN

A sign lawfully constructed and maintained prior to the adoption of this chapter, but does not conform to the provisions of this chapter.

PERMANENT SIGN

A sign which is affixed or otherwise attached to the property or to a structural frame upon the premises and is intended to remain there for other than a temporary period.

REAL ESTATE SIGN

A sign indicating that the property, premises or any portion thereof on which it is located is for sale, lease or rent.

TEMPORARY SIGN

A sign which is displayed for no more than 30 days.

PHYSICAL SIGN DEFINITIONS

BULLETIN BOARD

An outdoor structure containing a surface upon which may be displayed the name of a park, church, school, library, community center or similar institution or facility and the announcement of the services or activities thereof or thereon.

CANOPY SIGN

A sign attached to the underside of a canopy.

FREESTANDING SIGN

A sign which is supported by one or more uprights, poles or braces in or upon the ground and which is not attached to a building.

PROJECTING SIGN

A sign, other than a wall sign, which is attached to the exterior wall of a building and which extends beyond such exterior wall.

ROOF SIGN

A sign that is mounted on or applied to the roof of a building or which is wholly dependent upon a building for support and which projects above the roofline of a building with a flat roof, or above the eave line of a building with a gambrel, gable, hip, mansard or other non- flat roof.

WALL SIGN

A sign which is attached to and placed flat against any exterior wall of a building or which is painted on any exterior wall of a building and which does not extend above the lowest point of the roofline.

WINDOW SIGN

A sign which is attached to or painted on either the inside or outside of an exterior window of a building or which is placed or intended to have the advertising thereon viewed primarily outdoors through an exterior window.

WIND SIGN

A sign which is not fully affixed to a building, structure or other structural frame and which is intended to flap freely in the open air.

§ 245-115. General regulations.

- A. Permits. No person shall erect, construct, reconstruct, relocate or use a permanent sign, including but not limited to a bulletin board, without first obtaining a sign permit, except for identification signs in

residential zones as permitted in **§ 245-116B** and **C**.

- (1) Applications for a sign permit shall be made to the Zoning Officer in writing. Applications shall contain the following: proposed use, size, coloring, material, illumination (if any), wording, a scale drawing showing the sign's design and relation to the building and its location on the premises.
 - (2) A fee shall be required with each application except applications from the Board of Education or local government bodies. The fee shall be as set forth in **§ 111-3B**.
 - (3) If the Zoning Officer, after checking and reviewing the application and plans and specifications, determines that the proposed sign or the proposed alteration or relocation thereof conforms to all requirements of this subsection, he shall approve the application and issue a permit.
 - (4) The Zoning Officer may issue a permit for a temporary wall, window or freestanding sign to be displayed for not more than 30 days in any two-month period.
- B. Content of signs. Signs shall be limited to those identifying the name, business, uses, occupants, products, or services of the premises on which they are located.
- C. Construction and maintenance. All signs shall be neat, constructed of durable materials and maintained at all times in safe condition and good repair by the owner of the premises upon which they are erected. The Zoning Officer may require necessary repair and painting of any sign which has been neglected or require its removal.
- D. Signs at intersections; interference with traffic signs. No sign shall be located at or near any street, intersection or driveway so as to create a traffic hazard by obstructing vision. No sign shall be located, constructed or lighted so as to interfere with or obstruct the view of any authorized traffic sign, signal or device. No red, green or yellow sign shall be located where it might be confused with a traffic signal.
- E. Obstructions. No sign or sign structure shall be erected in such a manner that any portion thereof will interfere with the free use of any fire escape, exit or standpipe, or will obstruct or block or cover any window except window signs.
- F. Sign area measurement. The area of any sign shall be computed as the product of the largest horizontal width and the largest vertical height of the lettering, illustration, display, frame, background or combination of these elements. This shall not be construed to include the supporting members of any sign which are used solely for such purpose. For signs with two display faces (back-to-back), the maximum area requirement shall be permitted on each side.
- G. Illumination. Only externally illuminated signs are permitted, subject to the following standards:
- (1) Permitted external illumination types.
 - (a) Halo lights placed behind individual reverse pan-channel letters.
 - (b) Spotlights which are directed to shine directly on the sign. Such lights shall be directed and/or shielded so as not to shine onto neighboring property or into the eyes of passing motorists.
 - (c) All bare bulbs, tubes and other light sources must be shielded from view from any point on a public right-of-way and from adjacent residential lots.
 - (2) LED lights should be used wherever feasible. Regardless of the type of illumination employed, the sign shall be properly shielded and located so as to prevent glare or blinding effects upon any line of moving traffic and so as not to be offensive to residents of the area.
 - (3) No outdoor sign shall remain illuminated after 9:00 p.m. unless the establishment using the sign is open to the public for business.
- H. Provisions applicable to specific sign types. The following provisions shall apply to all zones unless otherwise set forth in this Article.
- (1) Construction signs. No construction sign shall have any moving parts or be constructed of any reflective material, and no such sign shall be illuminated, and no part of such sign shall be higher

than six feet above finished grade.

- (2) Directional signs. Directional signs having areas of less than three square feet are exempt from area and location regulations but shall be shown on an approved site plan. The Zoning Officer may authorize or require in writing additional signs for directional and safety purposes.
- (3) Bulletin boards. In any zone a single-faced bulletin board not to exceed 18 square feet in area shall be permitted and shall serve only to identify and announce the services and activities of a park, public or parochial or independent school, library, church, community center or other similar community facility or institution. Such bulletin board shall be located on the site of the community facility or institution, no closer than 10 feet to any street line or any lot line, and no portion thereof shall be higher than six feet above finished grade.
- (4) Real estate signs. One unilluminated real estate sign not more than 12 square feet in area in nonresidential zones and four square feet in area in residential zones is permitted on the premises to which it relates.
- (5) Projecting signs. Where permitted, no projecting sign shall exceed the lowest roofline or 12 feet in height, whichever is less, nor shall it be so low as to endanger the health and safety of pedestrian and vehicular traffic. In no event shall the projecting sign be lower than eight feet. A sign shall not project more than two feet from the wall.
- (6) Political, religious or other signs conveying statements which are within the protection, of any provision of the Constitution of the United States shall be permitted except that no such sign shall be greater than 12 square feet, and shall otherwise conform to the provisions of this chapter.
- I. Prohibited signs. Signs of the following types, or types closely related to them, are specifically prohibited in all zones:
 - (1) Moving signs; wind signs; roof signs; banners; oscillating, rotating, flashing or other intermittent-type signs.
 - (2) General advertising signs.
- J. Removal. After a use, advertised by a sign, has been abandoned or terminated, the owner of the premises shall be responsible for the immediate removal of such sign. If such sign is not removed within 30 days after such abandonment or termination, the Construction Official shall cause removal of such sign, and cost of such removal shall be a lien on the premises.
- K. Nonconforming signs. No nonconforming sign shall be altered, enlarged and/or reconstructed, except in such a manner as to comply with the requirements of this chapter.

§ 245-116. Permitted signs in residential zones.

- A. Except as otherwise expressly provided in **§ 245-115**, no sign other than those hereinafter provided in this section shall be permitted in any residential zone.
- B. One single-faced personal identification sign plate no larger than 50 square inches overall, which may be placed on the wall of the building, shall be permitted.
- C. Single-faced property identification signs conforming to the following conditions shall be permitted:
 - (1) The maximum area of each such sign shall be one square foot.
 - (2) No more than two such signs shall be permitted.
- D. House numbers.
 - (1) House numbers shall be a minimum height of four inches and shall be placed in a conspicuous location at least 24 inches above the grade where located so as to be clearly visible from the street as per **Chapter 164, § 164-3**.
 - (2) House numbers may not exceed 8 inches in height, whether on a freestanding sign, on the house,

or painted on a rock. They may not be painted on trees or utility poles as per **§ 164-3**.

- E. For home occupations permitted as a conditional use per **§ 245-100**, one single-faced identification sign, which may also specify the service or profession, not over two square feet in area, shall be permitted. Only one sign per dwelling unit shall be permitted.
- F. Each contractor, while working on the premises, shall be permitted one construction sign of not over six square feet in area, subject to the requirements of **§ 245-115H(1)**.
- G. No sign except property identification signs shall be located closer than 10 feet to any front lot line or to any residence lot line.
- H. No portion of any sign permitted in this section shall be more than six feet above finished grade.

§ 245-117. Permitted signs in non-residential zones.

A. General regulations.

- (1) Front yard setback. No part of any freestanding sign shall be closer than 10 feet to any front lot line or residence lot line, or 5 feet to any other side lot line. In specific situations for safety, the Zoning Officer may require a greater setback.
- (2) Signs may be externally illuminated per **§ 245-115G**. No outdoor sign shall remain illuminated after 9:00 p.m. unless the establishment using the sign is open to the public for business.
- (3) In shopping or business centers containing more than one establishment, directory signs which are a part of the aggregate sign allowance for individual establishments are permitted and encouraged. The directory, if freestanding, shall constitute the one freestanding sign permitted for each individual establishment.
- (4) Stores in structures with more than one store and with direct access from the side or rear may have an identification sign of not more than two square feet next to, over, or on the side or rear entrance.
- (5) Each contractor or construction professional, while working on the premises, shall be permitted one construction sign of not over 15 square feet in area, subject to the requirements of **§ 245-115H(1)**.

B. Permitted signs in Business Zone A:

- (1) Two signs, which may be wall signs, canopy signs, projecting signs or freestanding signs, aggregating not more than 30 square feet in area shall be permitted. Wall signs shall be located on the street-facing side(s) of the building.
- (2) In no event shall the permitted area of all signs on any premises exceed 10% of the overall surface of the street wall. For purposes of computing the street wall, the height of the building wall shall not exceed 15 feet for one-story structures or 25 feet for two or more story structures.
- (3) No sign of any kind shall exceed three feet above the lowest roof line or 12 feet in height, whichever is less.

C. Permitted signs in Business Zone B and Office and Light Industrial Zones OL-1 and OL-2

- (1) One wall sign measuring not more than 30 square feet in area shall be permitted. Wall signs shall be located on the street-facing side of the building, except that if a property has two frontages, a second wall sign shall be permitted for a total of two wall signs, in which case the aggregate shall not exceed 50 square feet in area. No signs will be permitted on rear walls or side walls when said wall abuts a residential use or zone or any public or institutional use.
- (2) One freestanding sign measuring no more than 30 square feet in area shall be permitted; if a property has two frontages, two such freestanding signs shall be permitted.
- (3) No sign of any kind shall exceed 18 feet in height above finished grade.
- (4) All applications for signs in OL-2 and OL-2 Zones shall be reviewed and approved or denied by the

Planning Board, in accordance with the site plan provisions of the land use ordinance.

Article XV. Nonconforming Uses, Structures and Buildings

§ 245-118. Continuance.

- A. Any nonconforming use or structure existing at the time of the passage of this chapter may be continued upon the lot or in the structure so occupied, and any such structure may be restored or repaired in the event of partial destruction thereof in accordance with § 245-53.
- B. No nonconforming use shall be extended, except by variance granted pursuant to N.J.S.A. 40:55D-70d. However, where a building meets the use requirements of this chapter but is nonconforming because of height, width, depth or yard requirements, said building may be altered or enlarged, provided that the height, area, coverage, FAR, yard or any other regulations in this chapter of this chapter are not violated; for example, if a front yard is nonconforming, this does not preclude a conforming addition to the rear within the rear setback line.
- C. Accessory uses and structures. Where a structure has been erected and used for an accessory use to a dwelling according to § 245-89B and such accessory use ceases, as by independent sale of either the dwelling or accessory structure or by the moving or demolition of the primary or accessory structure, the accessory structure shall lose its status as such and shall be governed by the regulations herein pertaining to a primary or main building.
- D. Any structure existing at the time of the passage of this chapter which is essentially designed or readily adaptable to accommodate a permitted use may be occupied as such without regard to the bulk requirements of this Chapter, provided that:
 - (1) The structure is not expanded beyond its existing outside dimensions.
 - (2) Its use would not constitute a hazard to public health or safety.
 - (3) Site plan approval is obtained, if required.

§ 245-119. Completion of construction; restoration of existing buildings.

- A. Completion of construction. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a construction permit has been issued, or for which plans and a construction permit application are on file and pending at the time of the passage of this chapter, provided such plans and intended use conform with the ordinance in effect at the time the application was made, and provided the construction of the building is diligently prosecuted after the permit is granted and completed within one year thereafter.
- B. Restoration. Nothing herein contained shall prevent the restoration of a building destroyed for any reason, including, but not limited to, fire, explosion, act of God, act of war, voluntary demolition or negligence, to the extent of no more than 50% of its true reproduction value or 50% of its cubical volume of the building at the time of the partial destruction, or prevent a change of its existing use under the limitations provided in § 245-118, but any building destroyed in the manner aforesaid to an extent exceeding 50% of its true reproduction value or 50% of its cubical volume of the building at the time of such destruction may be reconstructed and thereafter used only in such a manner as to conform to all the provisions of this chapter.
- C. No structure in process of completion or demolition and no ruins from fire or other casualty shall be abandoned in a disorderly, unsightly or hazardous state. Such structure shall be considered to have been abandoned when work to remedy the improper condition has not been initiated within 60 days after the occasion of the casualty, or, if initiated, work has been discontinued with the owner's consent for 30 or more consecutive days or for more than 30 days out of 60 days. Each day's abandonment shall be considered as a separate violation of this provision of this chapter.

§ 245-120. Certificate of non-conformity

The prospective purchaser, prospective mortgagee, or any other person interested in any land upon which a

nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the administrative officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Zoning Board of Adjustment. The administrative officer shall be entitled to demand and receive for such certificate issued by him a fee in the amount specified at § 111-3. The fees collected by the administrative officer shall be paid to the municipality. Denial by the administrative officer shall be appealed to the Zoning Board of Adjustment. The provisions of N.J.S.A. 40:55D-72 through 40:55D-75 shall apply to applications or appeals to the Zoning Board of Adjustment.

Article XVI. Performance Standards & Hazardous Uses

§ 245-121. Performance standards.

Performance standards. Before the issuance of any construction permit or certificate of occupancy for any construction, alteration or conversion or use of any building, structure or land, all of the following regulations shall be complied with:

- A. Fire and explosion hazards. All activities shall be carried on only as permitted and regulated by the laws of the United States of America and the State of New Jersey in structures which conform to the standards of the National Board of Fire Underwriters' Laboratories, Inc., or Borough of Mountain Lakes ordinances, whichever are more restrictive. All operations shall be carried on, and explosive raw materials, fuels, liquids and finished products stored, in accordance with the standards of such Underwriters' Laboratories, Inc. Buildings, if required by ordinance, shall be equipped with automatic sprinklers which conform to the standards of the Underwriters' Laboratories, Inc.
- B. Radiation. Any industrial or other operations or processes involving any form of radioactive materials, radioactivity or microwave and other electric radiations shall be conducted in accordance with the New Jersey Radiation Protection Act and Code, performance standards in the National Health and Safety Act of 1968 and other applicable state and federal regulations as administered by the Bureau of Radiation Protection, New Jersey Department of Environmental Protection and related health agencies.
- C. Smoke, fumes, gases, dust and odors.
 - (1) There shall be no emission of any smoke, fumes, gas, dust or odors, except in accordance with the standards established in and by the New Jersey Air Pollution Code. These and any other atmospheric pollutants as regulated in the New Jersey Air Pollution Control Code are prohibited.
 - (2) Odorous matter released from any operation or activity shall not exceed the odor threshold concentration beyond the lot lines, measured either at ground level or habitable elevation in accordance with the Standard Method for Measurement of Odor in Atmosphere (dilution method), 1972 Annual Book of the American Society Testing and Materials, Philadelphia, Pennsylvania.
- D. Vibration. There shall be no vibration other than noise which is discernible to the human sense of hearing beyond the immediate site on which such use is conducted.
- E. Noise.
 - (1) There shall be no noise created on any property which may result in sound in excess of the standards listed below when measured at any point on the property line of the lot on which the use or source of sound is located, unless a variance is granted by the appropriate approving authority:
 - (a) Continuous airborne sound which has a sound level in excess of 65 dBA from 8:00 a.m. to 8:00 p.m. or 50 dBA from 8:00 p.m. to 8:00 a.m.

Note: "dBA" means the abbreviation designating the unit of sound level as measured by a sound level meter using the A-weighting.

 - (b) Impulsive sound in air which has an impulsive sound level of 80 dBA.

- (2) Measurement of sound level shall be in accordance with the provisions of N.J.A.C. 7:29-1.1 et seq., which is hereby adopted by reference.
- (3) Compliance with these requirements is subject to review by a professional chosen by the Planning Board as needed.

F. Petroleum storage. Any storage of petroleum products shall meet all applicable federal, state and local state codes.

§ 245-122. Hazardous uses of buildings or land.

- A. No building or land shall be used and no building or structure shall be erected, constructed, reconstructed, altered or repaired which is arranged, intended or designed for any trade, business or use that is hazardous or potentially hazardous to health or safety or which uses hazardous substances or potentially hazardous substances, or that is noxious or offensive by reason of the emission of odor, vapor, gas, dust, smoke, toxic or corrosive fumes, noise, vibration, heat, glare or flashes of light, radiation or objectionable waste, effluent or pollutants.
- B. No open area on any premises may be used for dumping, accumulating, piling or burying trash, junk or solid or liquid waste of any kind, or for storing, dismantling, demolishing or abandoning vehicles, machinery or parts thereof. Temporary storage of material for recycling shall be permitted in residential zones.
- C. The Planning Board may exempt certain minor uses of hazardous substances upon a finding that the operation of a business using the hazardous substances within the Prime Aquifer Area does not pose a risk to public health and safety and does not pose a risk to the groundwater supply.

Article XVII. Affordable Housing

§ 245-123. Purpose.

- A. This article sets forth regulations regarding the low- and moderate-income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing," N.J.A.C. 5:93 et seq., the Uniform Housing Affordability 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. This article 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 article shall apply except where inconsistent with applicable law.
- C. 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. This article 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. The Borough shall file monitoring reports with the Superior Court and place the reports on its municipal website.

§ 245-124. Monitoring and reporting requirements.

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-329.1, 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-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very-low-income housing obligation under the terms of this settlement.

§ 245-125. Definitions.

The following terms when used in this article shall have the meanings given in this section:

ACCESSORY APARTMENT

A residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home or existing accessory structure on the same site, or is a dwelling above or connected to an existing building which has historically served as a rental apartment.

ACT

The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

ADAPTABLE

Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT

The entity responsible for the administration of affordable units in accordance with this article, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE

The average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE

A sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may

be amended and supplemented.

AFFORDABLE DEVELOPMENT

A housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT

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.

AFFORDABLE HOUSING PROGRAM(S)

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT

A housing unit proposed or created pursuant to the Act, approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT

A housing unit designed to meet the needs of, and exclusively for, the residents of an age- restricted segment of the population such that all the residents of the development where the unit is situated are 62 years or older; or at least 80% of the units are occupied by one person that is 55 years or older; or 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.

AGENCY

The New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

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 include, 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

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

A household that has been certified by an administrative agent as a low-income household or moderate-income household.

COAH

The Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

DCA

The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT

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

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

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.

INCLUSIONARY DEVELOPMENT

A development containing both affordable units and market rate units. This term includes, but is not necessarily limited to new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 50% or less of the regional median household income by household size.

LOW-INCOME UNIT

A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

MARKET-RATE UNITS

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME

The median income by household size for the applicable county, as adopted annually by COAH or approved by the New Jersey Superior Court.

MODERATE-INCOME HOUSEHOLD

A household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

MODERATE-INCOME UNIT

A restricted unit that is affordable to a moderate-income household.

NONEXEMPT SALE

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT

The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by/approved regional income limits.

REHABILITATION

The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT

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 UHROP or MONI.

SPECIAL MASTER

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

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY-LOW-INCOME HOUSEHOLD

A household with a total gross annual household income equal to 30% or less of the median household income.

VERY-LOW-INCOME UNIT

A restricted unit that is affordable to a very-low-income household.

WEATHERIZATION

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.

§ 245-126. Borough-wide mandatory set-aside.

- A. Any future multifamily residential development providing a minimum of five 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.

§ 245-127. Accessory apartment program.

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

§ 245-128. 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.

- 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 units.

Maximum Percentage of Market Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25%	0%
25%+1	10%
50%	50%
75%	75%
90%	100%

- B. Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- C. Off-site construction. A developer may construct affordable units off-site at the discretion of either the Planning or Zoning Board, whichever is the applicable reviewing entity, in accordance with N.J.A.C. 5:93.
- D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- E. Low/moderate split and bedroom distribution of affordable housing units:
- (1) The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 - (3) Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very-low-income households.
 - (4) Affordable developments that are not age-restricted shall be structured in conjunction with realistic

market demands such that:

- (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
 - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (5) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

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

G. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type. At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income. These very-low-income units shall be part of the low-income requirement.

- (5) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a 1 1/2 person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a 4 1/2 person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - (a) A studio shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a 1 1/2 person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one- person households.
- (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% 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% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, 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 9% 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 association 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% of the market rate fee.

§ 245-129. 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; and
 - (3) 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.

§ 245-130. Control periods for restricted ownership units and enforcement mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article until Mountain Lakes elects to release the unit from such requirements however, and prior to such an election, a restricted ownership 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. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- D. At the time of the first sale of the unit, the purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the requirements of this article, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 245-131. Price restrictions for restricted ownership units, homeowner association fees and resale prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 245-132. 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% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% 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% of the household's certified monthly income.

§ 245-133. 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% 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. 5:80-26.6(b).

§ 245-134. Control periods for restricted rental units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this article until the Borough of Mountain Lakes 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 Morris. 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 article, despite the occurrence of any of the following events:
 - (1) Sale or other voluntary transfer of the ownership of the unit; or
 - (2) The entry and enforcement of any judgment of foreclosure.

§ 245-135. Price restrictions for rental units; leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent. Assignment and subletting shall not be permitted.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent to be applied to the costs

of administering the controls applicable to the unit as set forth in this article.

§ 245-136. Tenant income eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - (2) Low-income rental units shall be reserved for household with a gross household income less than or equal to 50% of median income.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age- restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
 - (1) The household currently pays more than 35% (40% for households eligible for age- restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (2) The household has consistently paid more than 35% (40% for households eligible for age- restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (3) The household is currently in substandard or overcrowded living conditions;
 - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (5) The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the administrative agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection **B(1)** through **(5)** above with the administrative agent, who shall counsel the household on budgeting.

§ 245-137. Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison (MHL) for Mountain Lakes is established by this article. 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.

§ 245-138. 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.
- 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. 5:80-26.14, 16 and 18 thereof, which includes:
 - (1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
 - (2) Affirmative marketing;
 - (3) Household certification;
 - (4) Affordability controls;
 - (5) Records retention;
 - (6) Resale and rental;
 - (7) Processing requests from unit owners; and
 - (8) Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
- D. The administrative agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 245-139. Affirmative marketing requirements.

- A. Mountain Lakes shall adopt by resolution an affirmative marketing plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 2 and covers the period of deed restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 2 comprised of Essex, Morris, Union and Warren Counties.

- D. The administrative agent designated by Mountain Lakes shall assure the affirmative marketing of all affordable units consistent with the affirmative marketing plan for the municipality.
- E. In implementing the affirmative marketing plan, the administrative agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Mountain Lakes.
- H. Selection of occupants of affordable housing units.
 - (1) The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.
 - (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.

§ 245-140. 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.
- C. 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.

- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.
- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

Article XVIII. Affordable Accessory Apartments

§ 245-141. Applicability and purpose.

- A. **Applicability.** This article applies to the establishment of accessory apartments in the Borough, in any Residential District and in the A Business District. Until passage of this article, only single-family housing has been allowed in Residential Districts.
- B. **Purpose.** It is the purpose of this program to help meet a portion of the Borough's fair share housing obligation and provide a realistic opportunity for the development of affordable housing through creation of up to five accessory apartments for occupancy by very-low-income, low- income, or moderate-income households.

§ 245-142. Definitions.

Definitions pertaining to affordable housing not found below are the same as those definitions that appear in the rules and regulations adopted by the Council on Affordable Housing in N.J.A.C. 5:93-1 et seq. as used in this chapter.

APPLICANT

The person or persons applying to establish an accessory apartment in accordance with the provisions of this chapter.

CONTRIBUTING DWELLING

One of the dwellings listed on Schedule II that was constructed on or before December 31, 1938, is listed as "contributing buildings" within the Mountain Lakes Historic District in the National Register of Historic Places Registration Form for the Mountain Lakes Historic District, and has not been demolished; and such other structures as are designated as "contributing dwellings" by ordinance upon the recommendation of the Mountain Lakes Historic Preservation Committee or successor entities and the Planning Board.

§ 245-143. Minimum standards.

- A. An accessory apartment shall be permitted in an existing structure on a property which is in conformity with the regulations of the zoning district in which it is located, including minimum required lot area, lot frontage, lot width, lot depth, maximum floor area ratio (FAR), maximum impervious lot coverage (ILC) and all setback and other bulk requirements. An accessory apartment shall also be permitted in a preexisting nonconforming property as long as it does not require an additional bulk variance.
- B. Creation of any accessory apartment shall require a building permit prior to construction of additions and/or alterations and issuance of a certificate of occupancy prior to signing a lease with a tenant.
- 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 §245-48 and §245-88. Any accessory apartment provided within a contributing dwelling 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 seven 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 and Sewer Utility.
- G. The creation of an accessory apartment shall not create a nonconforming 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 accessory apartment located on any lot unless the property is in the A Business Zone and has more than one preexisting apartment.
- I. Off-street parking shall be provided for the occupants of the affordable accessory apartment in conformance with Article **XII**, Off-street Parking and Loading, 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 property, and shall in no way confer upon the property owner any future rights to subdivide the existing lot.
- L. In the case of an accessory apartment created without proper permits, which the property owner desires to designate as an accessory apartment under this program, all of the requirements of this article and all requirements of the U.C.C. shall apply.
- M. Any existing code deficiencies in the portion of the building to be devoted to the accessory apartment unit shall be corrected, and the unit shall be brought up to code standard. The standard for evaluating any rehabilitation activity on an existing dwelling unit shall be N.J.A.C. 5:23-2.4 and 5:23-2.5.
- N. Any accessory apartment created within an existing dwelling or an accessory structure (e.g. if provided above a detached garage) shall be fire-separated vertically and/or horizontally from the existing structure in accordance with the New Jersey Uniform Construction Code Rehabilitation Subcode, N.J.A.C. 5:23-6.6(e)12.
- O. The owner shall agree to rent the accessory apartment unit only to a moderate- low- or very- low-income tenant.
- P. The owner shall agree that prior to the issuance of a certificate of occupancy for the initial tenant of the accessory apartment, there shall be a recorded deed or declaration of covenants and restrictions applied to the property running with the land that maintains the affordability of the accessory apartment for the minimum ten-year period. A sample deed restriction and/or loan agreement prepared by the Borough Attorney shall be supplied to the applicant.
- Q. The accessory apartments shall adhere to all current building code requirements of the latest adopted editions of the International Residential Code New Jersey Edition and the New Jersey Uniform Construction Code.

§ 245-144. Affordability controls.

- A. Liens on property. An owner who receives financial assistance under the provisions of the accessory apartments program shall be required to place a lien on his or her property. The following requirement shall apply to such liens:
 - (1) The Borough shall be specified as the lienholder.

- (2) The lien shall specify that the value of the lien equals the amount of the monetary benefits received by the applicant under the accessory apartments program.
 - (3) A record of the lien will be kept on the property tax record, in the County Clerk's files, in the administrative agent's records, and notification to the tax collector with the deed and with the insurance policy, as required by this program.
 - (4) The owner shall notify the administrative agent, in writing, of the intent to sell a property that has benefited from the accessory apartments program, if the accessory apartment is still under the affordability controls and restrictions required by this program.
 - (5) Each time the unit is rerented, 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 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 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.

§ 245-145. Program compliance.

- A. The Borough shall designate an administrative agent to administer the accessory apartments program. The administration agent'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.
- B. The administrative agent shall only deny an application for an accessory apartment if the project is not in conformance with the requirements N.J.A.C. 5:93-1 et seq., and/or the provisions of this article. All denials shall be in writing with the reasons clearly stated.
- C. Violations, defaults, and remedies. In the event of a threatened breach of any of the regulations governing the affordable unit by an owner of an accessory apartment, the administrative agent shall have all the remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties that it will cause irreparable harm to the municipality,

in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of very-low-, low- and moderate-income housing.

§ 245-146. Sunset clause.

The provisions of this article permitting accessory apartments shall become null and void, having no further force or effect, upon the issuance of a certificate of occupancy for the fifth accessory apartment within the Borough of Mountain Lakes. The administrative provisions shall remain in full force and effect until the last deed restriction expires.



BOROUGH OF MOUNTAIN LAKES

LISTED IN NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

Mitchell Stern
Borough Manager
mstern@mtnlakes.org

400 Boulevard
Mountain Lakes, NJ 07046
P -973-334-3131 ext. 2006

TO: Honorable Mayor and Borough Council
SUBJ: Manager's Report for the Borough Council meeting of February 10, 2025
CC: Robert Oostdyk, Borough Attorney

Annual Budget Process – Members of Borough Council have been provided with an updated version of the proposed annual budget. The revised budget includes all changes requested during our two budget workshop sessions. We intend to introduce this amended budget at our Feb 24th meeting.

Fee Ordinances – As part of the annual budget process, fees charged by the Borough are reviewed to ensure they are appropriate. This year, we will propose fee changes related to recreation, construction, land use, health services, and fire safety. For the Feb 10th meeting, we will introduce amendments to the recreation, construction, and land use fee schedules, along with a language change related to shade tree fees. For our Feb 24th meeting, we will introduce fee changes related to health services and fire safety. Your packet for the Feb 10th meeting contains supporting documentation for the proposed fee changes related to recreation, construction, and land use.

Solid Waste – 2025 is the third and final year of our three-year solid waste contract. As such, we will prepare bid documents over the coming months and then solicit bids for a multi-year contract. I recommend continuing with the services provided in the current agreement and not making any changes.

Elected Official Training—The MEL Safety Institute's Annual Elected Officials Seminar is now available through its Learning Management System. I have emailed everyone the directions for completing the course. The MEL provides a \$250 credit for each municipal elected official who completes the course. Everyone is requested to complete the course within the next week.

As always, feel free to reach out with any questions or concerns.

Respectfully,

Mitchell

RESOLUTION AND ORDINANCE REVIEW FOR THE FEBRUARY 10, 2025 MEETING

TO: MAYOR AND COUNCIL

FROM: MITCHELL STERN, MANAGER

RESOLUTIONS

R78-25, AUTHORIZING THE TRANSFER OF APPROPRIATIONS – this resolution authorizes the CFO to transfer excess appropriations to appropriations that are insufficient to meet current needs as authorized by N.J.S.A. 40A:4-58. A complete explanation from our CFO is included with the resolution.

R79-25, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT FOR LAKES MANAGEMENT BETWEEN THE BOROUGH OF MOUNTAIN LAKES AND TIGRIS FOR LAKE MANAGEMENT SERVICES - this resolution authorizes a contract with Tigris to provide lakes management and water quality management services for 2025. The financial impact of this contract is an increase of 6.4% over the previous year's agreement, however the scope of work has expanded to include maintaining aeration systems in several of our water bodies. Based on a standard contract increase of 2.5%, the cost of the aeration maintenance amounts to \$2,500.

ORDINANCES TO INTRODUCE

1-25, CALENDAR YEAR 2025 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND ESTABLISH A CAP BANK - this ordinance authorizes the Borough to increase the annual budget by up to 3.5% over the previous year, if necessary. This ordinance is adopted annually. Adoption of this ordinance is recommended by the Borough CFO and Auditor.

2-25, AMENDING CHAPTER 173 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND AMENDING THE RULES GOVERNING LAKES, PARKS, AND SPECIAL USE FACILITIES – this ordinance modifies the language of Chapter 173 to specify that the referenced map is the most current version as of January 7, 2025, and permits future amendments. This amendment ensures the ordinance remains up-to-date and responsive to future changes.

3-25, AMENDING CHAPTER 111 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND REVISING THE FEE SCHEDULE - this ordinance authorizes fee adjustments for construction code permits, recreation, and land use. This ordinance also amends the language regarding tree removal fees to be in alignment with the Borough's tree removal ordinance. These adjustments have been recommended by the Borough Construction Official, Recreation Director, Planning Board Administrator, and Shade Tree Commission.

ORDINANCES TO ADOPT

NONE.

If you have any questions prior to the meeting, please feel free to contact me.

BOROUGH OF MOUNTAIN LAKES MORRIS COUNTY, NEW JERSEY

ORDINANCE 1-25

**CALENDAR YEAR 2025
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO
ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Borough Council of the Borough of Mountain Lakes in the County of Morris finds it advisable and necessary to increase its CY 2025 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Borough Council hereby determines that a 2.5% increase in the budget for said year, amounting to \$181,650.23 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Borough Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Mountain Lakes, in the County of Morris, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2025 budget year, the final appropriations of the Borough of Mountain Lakes shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$254,310.32, and that the CY 2025 municipal budget for the Borough of Mountain Lakes be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of the ordinance duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on February 24, 2025.

Cara Fox, Borough Clerk

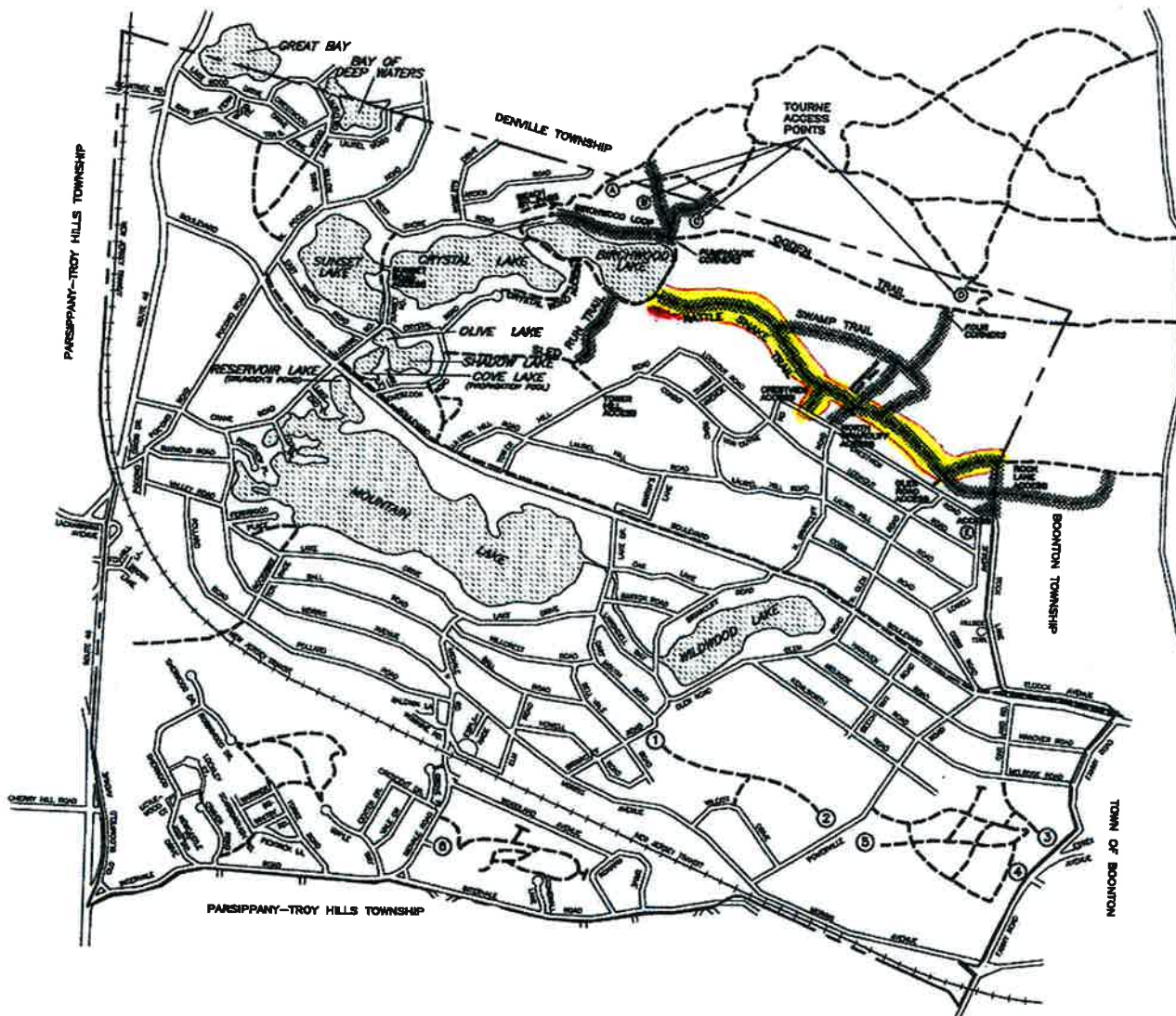
Introduced: 2/10/25

Adopted: 2/24/25

[illegible]

ORDINANCE 2-25

[illegible]



LEGEND

- MAJOR TRAILS
- ① BRIARCLIFF SCHOOL
- ② HIGH SCHOOL
- ③ YMCA
- ④ PITCHER/SCERBO FIELDS
- ⑤ TENNIS COURTS
- ⑥ HASWELL FIELD

TRAILS MARKED THUS  ARE FOR FOOT TRAFFIC ONLY.
ANDERSON AND DENZLER ASSOCIATES, INC.
JUNE 7, 2000

NATURAL RESOURCES INVENTORY

TRAIL MAP

ENVIRONMENTAL COMMISSION

BOROUGH OF MOUNTAIN LAKES

JUNE 2000

SCALE IN FEET
0 500 1200 1800

**BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY**

ORDINANCE 3-25

**ORDINANCE AMENDING THE CHAPTER 111 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND AMENDING THE FEES
FOR CONSTRUCTION CODE PERMITS AND THE FEE FOR A TREE REMOVAL
PERMIT**

BE IT ORDAINED by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 111, Section 111-3 entitled “Fee Schedule”, of the Revised General Ordinance of the Borough of Mountain Lakes, Subsection B “Construction Code” shall be amended to read, in its entirety, as follows:

B.	Construction Code.		
	(1)	Building Subcode	
		Minimum fee	\$85.00
		New construction, including additions, per cubic foot of volume	\$0.088
		Renovations, alterations and repairs	
		Up to first \$50,000 in cost, per \$1,000	\$30.00
		Additionally, from \$50,001 to and including \$100,000 in cost, per \$1,000	\$27.00
		Additionally, over \$100,000 in cost, per \$1,000	\$24.00
		For the purpose of determining estimated cost, the applicant shall submit such cost data as may be available produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The Construction Official shall make the final decision regarding estimated cost.	
		Fees for combination renovations and additions shall be computed as the sum of the fees computed separately.	
		Building or structural demolition	
		R5 Use Group, complete	\$500.00
		All other use groups, complete	\$1,000.00
		Garage or accessory building demolition	
		R5 Use Group	\$100.00
		All other use groups	\$250.00
		Moving a building, per \$1,000 of estimated cost of work	\$30.00
		Asbestos abatement	\$100.00
		Administrative certificate of occupancy	\$25.00
		Lead hazard abatement	\$150.00
		Administrative certificate of clearance	\$50.00
		Flat fees for the following (not subject to minimum fee):	
		Swimming pools	\$250.00
		Temporary structures	

		Sheds, each	\$25.00
		House and construction trailers, each	\$250.00
		Tents, each	\$120.00
		Retaining wall with a surface area greater than 550 square feet that is associated with a Class 3 residential structure	\$300.00
		Retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure	\$200.00
		Retaining wall, newly constructed, at other than a Class 3 residential structure shall be based on the cost of construction.	
		Signs, per square foot	\$4.00
		Double faced signs shall be based on the area of one face of the sign	
		Certificate of occupancy	
		New construction, R5 Use Group	\$250.00
		All other Use Groups	\$300.00
		Additions, R5 Use Group	\$200.00
		All other Use Groups	\$300.00
		Change of use group	\$160.00
		Certificate of continued occupancy	Minimum of all subcode fees plus Certificate of Occupancy fee
		Temporary certificate of occupancy	
		Initial issuance	No fee
		Subsequent renewals, each, per month	\$100.00
		Certificate of approval	No fee
		Plan review, nonrefundable	20% of construction permit fee
		Permit surcharge fees	
		Permit surcharge [state-mandated, N.J.A.C. 5:23-4.19(b)], per cubic foot of volume (new work and additions only)	\$0.00371
		Alterations, per \$1 of cost	\$0.0019
		Variation application as per N.J.A.C. 5:23-2.10	
		Class I structure	\$700.00
		Class I structure, resubmission	\$250.00
		Class II and III structures	\$150.00
		Class II and III structures, resubmission	\$75.00
		Reinstatement of lapsed permit for continuation of work	Minimum of each subcode section not completed.
		Withdrawn permit administration fee payable once application has been released for permit	20% of construction permit fee
		Change of agent or contractor, each	\$35.00
		Closure of outstanding open permit, each	\$85.00
	(2)	Electrical Subcode	
		Minimum fee	\$85.00

	Electrical devices (i.e., lighting outlets, convenience receptacles, wall switches, smoke and heat detectors, fluorescent fixtures, fractional horsepower motors, emergency lights, exit lights, communication points, fire alarm devices, fire alarm control panel)	
	1 to 20 devices	\$85.00
	Each additional 20 devices	\$30.00
	Motors (all except those in plug-in appliances)	
	1 to 10 horsepower	\$25.00
	11 to 50 horsepower	\$80.00
	51 to 100 horsepower	\$125.00
	Over 100 horsepower	\$450.00
	Appliance equipment	
	1 to 10 kilowatts	\$25.00
	11 to 45 kilowatts	\$80.00
	46 to 112.5 kilowatts	\$125.00
	Over 112.5 kilowatts	\$450.00
	Transformers, generators	
	1 to 10 kilowatts	\$75.00
	11 to 45 kilowatts	\$125.00
	46 to 112.5 kilowatts	\$200.00
	Over 112.5 kilowatts	\$450.00
	Service entrance, panel, subpanel or disconnect	
	Up to 100 amperes	\$85.00
	101 to 200 amperes	\$175.00
	201 to 1,000 amperes	\$250.00
	Over 1,000 amperes	\$450.00
	Air-conditioning units (includes disconnect, compressor/condenser, air handler), each	\$85.00
	Replacement of any system part	\$50.00
	Burglar alarm system	\$50.00
	Replacement of any system part	\$25.00
	Swimming pools (includes receptacle, switch, trench, bonding)	\$250.00
	Equipotential bonding grid	\$60.00
	Hydromassage tub	\$50.00
	Hot tub, spa	\$80.00
	Certificate of compliance, annual inspection for public swimming pools, spas, hot tubs	\$200.00
	Photovoltaic systems	
	1 to 50 kilowatts	\$200.00
	51 to 100 kilowatts	\$300.00
	Greater than 100 kilowatts	\$500.00
(3)	Fire Subcode fees	
	Minimum fee	\$85.00
	Sprinkler systems, each	
	Pipe schedule	\$100.00

		Hydraulically calculated	\$100.00
		R5 Use Group, 20 or fewer heads	\$85.00
		Sprinkler system heads, all use groups	
		1 to 20 heads	\$125.00
		21 to 100 heads	\$250.00
		101 to 200 heads	\$450.00
		201 to 400 heads	\$750.00
		401 to 1,000 heads	\$1,150.00
		Over 1,000 heads	\$1,450.00
		Sprinkler system supervisory devices (i.e., tamper switches low/high air), each	\$20.00
		Standpipes, each	\$300.00
		Fire alarm systems	
		Control panel, R5 Use Group, each	\$50.00
		Control panel, non-R5 Use Group, each	\$100.00
		Fire alarm systems alarm devices (i.e., smoke detector heads, heat detector heads, pull stations, waterflow alarms)	
		1 to 20 devices	\$120.00
		21 to 100 devices	\$250.00
		101 to 200 devices	\$450.00
		201 to 400 devices	\$750.00
		401 to 1,000 devices	\$1,150.00
		Over 1,000 devices	\$1,450.00
		Fire alarm system security devices (i.e., door locks, electromagnetic releases), each	\$20.00
		Fire alarm system signaling devices (i.e., horns, strobes, bells), each	\$10.00
		Independent pre-engineered system, each	
		Wet chemical system	\$100.00
		All other systems	\$200.00
		Gas- or oil-fired appliances, each	
		R5 Use Group	\$50.00
		All other use groups	\$75.00
		Metal chimney liner installation, each	\$100.00
		Exhaust systems, each	
		Commercial kitchen	\$100.00
		Smoke control system	\$200.00
		Incinerators, each	\$460.00
		Crematorium, each	\$460.00
		Fuel storage tanks	
		R5 Use Group, install, remove or abandon, each	\$85.00
		All other use groups, install remove or abandon, each	
		Up to 275 gallons	\$100.00
		276 gallons to 1,000 gallons	\$200.00
		Each additional 500 gallons	\$50.00

	Fire pump, each	\$100.00
(4)	Plumbing Subcode	
	Minimum fee	\$85.00
	Fixtures (i.e., lavatories, kitchen sinks, basins, urinals, water closets, bathtubs, shower stalls, sill cocks, laundry tubs, floor drains, drinking fountains, dishwashers, garbage disposals, clothes washers and similar devices), each	\$25.00
	Stacks, each	\$65.00
	Special devices (i.e., grease traps, oil separators, refrigeration units, utility service connections, backflow preventers, gas service interceptors and fuel oil piping), each	
	R3 and R5 Use Group	\$65.00
	All other use groups	\$85.00
	Utilization equipment (i.e., steam boilers, hot-water boilers, warm-air furnaces), each	
	R3 and R5 Use Groups	\$85.00
	All other use groups other than R3 and R5	\$150.00
	Extension of existing heating systems	\$75.00
	Air-conditioning units each	
	R3 and R5 Use Groups	\$85.00
	All other use groups other than R3 and R5	\$150.00
	Water heaters each	
	R3 and R5 Use Groups	\$85.00
	All other use groups other than R3 and R5	\$150.00
	Gas piping each	
	R3 and R5 Use Groups	\$85.00
	All other use groups other than R3 and R5	\$150.00
	Vapor recovery systems, each	\$100.00
	Required annual reinspection (i.e., cross-connections, backflow preventers)	\$100.00
	Medical gas piping, per outlet	\$25.00
	VAV boxes	\$25.00
	Humidifiers	\$25.00
	Premanufactured homes, plan review, and connection inspections	\$250.00
	Swimming pools	\$150.00
(5)	Mechanical Subcode	
	Minimum fee, initial device installed for an R3 or R5 Use Group residential structure	\$85.00
	Each additional device after the first, for an inspection by a mechanical inspector for an R5 or R3 Use Group residential structure	\$65.00
(6)	Engineering	
	Engineering review fee	\$400.00
	Review of applications for construction permits which involve new construction, additions, modification of improved lot coverage or other work requiring review as determined by the municipal engineer.	

Section 2. Chapter 111, Section 111-3 entitled “Fee Schedule”, Paragraph P, “Tree Removal Permit,” of the Revised General Ordinance of the Borough of Mountain Lakes shall be amended to read, in its entirety, as follows:

P. Fee for Tree Removal Permit. An applicant for a tree removal permit under § 102-36 shall pay a fee of \$425 per tree removed. Fees received shall be deposited in the Borough Shade Tree Fund. No fee is required for the removal of 50% of the trees from the setback area up to a maximum of two trees in a twelve-month period.

Section 3. Chapter 111, Section 111-3 entitled “Fee Schedule”, of the Revised General Ordinance of the Borough of Mountain Lakes, Subsection E, “Recreation”, shall be amended to read, in its entirety, as follows:

E.	Recreation	
	(1) Beach Fees	
	(a) Family	\$125
	(b) Family after June 30	\$150
	(c) Individual or Nanny	\$30
	(d) Individual or Nanny after June 30	\$35
	(e) Seniors 62+	FREE
	(f) Children under 2 years old	FREE
	(g) Guest Books	\$25.00 for 5 days
	(h) Replacement tags	\$20.00
	(i) Guest fee daily-purchased at beach	\$8.00
	(2) Boat registration	\$5 per vessel
	a. Replacement sticker	\$5.00 per vessel
	(3) Night fishing permit	\$5 per calendar year
	(4) Commemorative Bench Program	Up to \$1,500.00 per bench
	(5) Facility Rental Cleaning Fee	Up to \$300.00 per rental
	(6) Recreation Programs	\$5.00-\$1,000.00 per program (including but not limited to youth sports, summer recreation programs, swim lessons, sailing program, special events, trips, and rack and ring program)

Section 4. Chapter 111, Section 111-3 entitled “Fee Schedule”, of the Revised General Ordinance of the Borough of Mountain Lakes, Subsection G, “Planning Board”, shall be amended to read, in its entirety, as follows:

G. Planning Board.			
(1)	Minor subdivision		\$450
		Additional fee, each lot	\$50
(2)	Major subdivision		
	(a)	Preliminary plat	\$750
		Additional fee, each lot	\$150
		Resubmission within one year, 50% of original fee	
		Minimum fee	\$500
	(b)	Final plat	\$500
		Additional fee, each lot	\$100
	(c)	Engineering inspection	\$300
		Plus % of cost of improvements	5%
	(d)	Additional fee for variance, per application	\$250 per variance
	(e)	Combine preliminary and final subdivision	Combined fee for preliminary and final
(3)	Site plan		
	(a)	Preliminary	
		[1] Basic	\$500
		[2] Per 1,000 square feet of land	\$5
		[3] Per 1,000 square feet of building floor area	\$50
	(b)	Final	
		[1] Basic	\$200
		[2] Per 1,000 square feet of land	\$2.50
		[3] Per 1,000 square feet of building floor area	\$30
	(c)	Combine preliminary and final subdivision	Combined fee for preliminary and final
	(d)	Resubmission within one year, of original fee	50%
		Minimum fee	\$400
	(e)	Engineering inspection, plus	\$200
		Plus % of cost improvements	4%
	(f)	Amended site plan	50% of original fee
	(g)	Additional fee for variance, per application	\$250 per variance
	(h)	Informal review	No charge
(4)	Conditional use or change in use		
		Application	\$750
(5)	Escrow fees		
		Residential subdivision	\$5,000
		Residential site plan (single-family home)	\$750
		Residential site plan (multiunit) per unit	\$1,000
		Nonresidential subdivision	\$6,000
		Nonresidential major site plan	\$10,000
		Nonresidential minor site plan	\$6000

CONSTRUCTION OFFICE FEES

General notes:

1. The fees pertain to all Use Groups unless otherwise stated.
2. All fees shall be calculated to the nearest whole dollar amount.
3. The basic construction permit fee shall be the sum of the parts computed on the basis of the volume or cost of construction, the number of plumbing fixtures and pieces of equipment, the number of electrical fixtures and rating of electrical devices, the number of sprinklers, standpipes, and detectors (smoke and heat) at the unit rates, and/or the applicable flat fees as provided in this subchapter plus any special fees.

Type of Service	Fees 2023	Fees 2025
Building Subcode		
Minimum fee	\$85.00	\$85.00
New construction, including additions, per cubic foot of volume	\$0.085	\$0.088
Renovations, alterations and repairs		
Up to first \$50,000 in cost, per \$1,000	\$28.00	\$30.00
Additionally from \$50,001 to and including \$100,000 in cost, per \$1,000	\$24.00	\$27.00
Additionally over \$100,000 in cost, per \$1,000	\$20.00	\$24.00
For the purpose of determining estimated cost, the applicant shall submit such cost data as may be available produced by the architect or engineer of record, or by a recognized estimating firm, or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The Construction Official shall make the final decision regarding estimated cost.		
Fees for combination renovations and additions shall be computed as the sum of the fees computed separately.		
Building or structural demolition		
R5 Use Group, complete	\$500.00	\$500.00
All other use groups, complete	\$1000.00	\$1000.00
R5 Use Group, interior nonstructural	\$85.00	\$85.00
All other use groups, nonstructural	\$150.00	\$150.00
Garage or accessory building demolition		
R5 Use Group	\$80.00	\$100.00
All other use groups	\$150.00	\$250.00
Moving a building, per \$1,000 of estimated cost of work	\$28.00	\$30.00
Asbestos abatement	\$100.00	\$100.00
Administrative certificate of occupancy	\$25.00	\$25.00
Lead hazard abatement	\$150.00	\$150.00
Administrative certificate of clearance	\$50.00	\$50.00
Flat fees for the following (not subject to minimum fee):		
Swimming pools	\$150.00	\$250.00
Temporary structures		
Sheds, each	\$25.00	\$25.00
House and construction trailers, each	\$250.00	\$250.00
Tents, each	\$120.00	\$120.00
Retaining wall with surface area greater than 550 square feet that is associated with a Class 3 residential	\$250.00	\$300.00

Type of Service	Fees 2023	Fees 2025
structure		
Retaining wall with a surface area of 550 square feet or less that is associated with a Class 3 residential structure	\$150.00	\$200.00
Retaining wall, newly constructed, at other than a Class 3 residential structure shall be based on the cost of construction.		
Signs, per square foot	\$4.00	\$4.00
Double faced signs shall be based on the area of one face of the sign		
Certificate of occupancy		
New construction, R5 Use Group	\$250.00	\$250.00
All other Use Groups	\$300.00	\$300.00
Additions, R5 Use Group	\$100.00	\$200.00
All other Use Groups	\$200.00	\$300.00
Change of use group	\$160.00	\$160.00
Certificate of continued occupancy		Minimum of all subcode fees plus Certificate of Occupancy fee
Temporary certificate of occupancy		
Initial issuance	No fee	No fee
Subsequent renewals, each, per month	\$100.00	\$100.00
Certificate of approval	No fee	No fee
Plan review, nonrefundable	20% of construction permit fee	20% of construction permit fee
Permit surcharge fees		
Permit surcharge [state-mandated, N.J.A.C. 5:23-4.19(b)], per cubic foot of volume (new work and additions only)	\$0.00371	\$0.00371
Alterations, per \$1 of cost	\$0.0019	\$0.0019
Variation application as per N.J.A.C. 5:23-2.10		
Class I structure	\$700.00	\$700.00
Class I structure, resubmission	\$250.00	\$250.00
Class II and III structures	\$150.00	\$150.00
Class II and III structures, resubmission	\$75.00	\$75.00
Reinstatement of lapsed permit, for continuation of work	Minimum of each subcode section not completed	Minimum of each subcode section not completed
Withdrawn permit administrative fee, payable once application has been released for permit	20% of construction permit fee	20% of construction permit fee
Change of agent or contractor, each	\$25.00	\$35.00
Closure of outstanding open permit, each	\$85.00	\$85.00
Electrical Subcode		
Minimum fee	\$85.00	\$85.00
Electrical devices (i.e., lighting outlets, convenience receptacles, wall switches, smoke and heat detectors, fluorescent fixtures, fractional horsepower motors, emergency lights, exit lights, communication points, fire alarm devices, fire alarm control panel)		
1 to 20 devices	\$80.00	\$85.00

Type of Service	Fees 2023	Fees 2025
Each additional 20 devices	\$25.00	\$30.00
Motors (all except those in plug-in appliances)		
1 to 10 horsepower	\$20.00	\$25.00
11 to 50 horsepower	\$75.00	\$80.00
51 to 100 horsepower	\$100.00	\$125.00
Over 100 horsepower	\$450.00	\$450.00
Appliance equipment		
1 to 10 kilowatts	\$20.00	\$25.00
11 to 45 kilowatts	\$75.00	\$80.00
46 to 112.5 kilowatts	\$100.00	\$125.00
Over 112.5 kilowatts	\$450.00	\$450.00
Transformers, generators		
1 to 10 kilowatts	\$50.00	\$75.00
11 to 45 kilowatts	\$100.00	\$125.00
46 to 112.5 kilowatts	\$200.00	\$200.00
Over 112.5 kilowatts	\$450.00	\$450.00
Service entrance, panel, subpanel or disconnect		
Up to 100 amperes	\$75.00	\$85.00
101 to 200 amperes	\$150.00	\$175.00
201 to 1,000 amperes	\$250.00	\$250.00
Over 1,000 amperes	\$450.00	\$450.00
Air-conditioning units (includes disconnect, compressor/condenser, air handler), each	\$80.00	\$85.00
Replacement of any system part	\$40.00	\$50.00
Burglar alarm system	\$50.00	\$50.00
Replacement of any system part	\$25.00	\$25.00
Swimming pools (includes receptacle, switch, trench, bonding)	\$200.00	\$250.00
Equipotential bonding grid	\$50.00	\$60.00
Hydromassage tub	\$30.00	\$50.00
Hot tub, spa	\$80.00	\$80.00
Certificate of compliance, annual inspection for public swimming pools, spas, hot tubs	\$200.00	\$200.00
Photovoltaic systems		
1 to 50 kilowatts	\$125.00	\$200.00
51 to 100 kilowatts	\$250.00	\$300.00
Greater than 100 kilowatts	\$500.00	\$500.00
Fire Subcode fees		
Minimum fee	\$85.00	\$85.00
Sprinkler systems, each		
Pipe schedule	\$100.00	\$100.00
Hydraulically calculated	\$100.00	\$100.00
R5 Use Group, 20 or fewer heads	\$75.00	\$85.00
Sprinkler system heads, all use groups		
1 to 20 heads	\$100.00	\$125.00
21 to 100 heads	\$200.00	\$250.00
101 to 200 heads	\$400.00	\$450.00
201 to 400 heads	\$750.00	\$750.00
401 to 1,000 heads	\$1,150.00	\$1,150.00
Over 1,000 heads	\$1,450.00	\$1,450.00
Sprinkler system supervisory devices (i.e., tamper	\$20.00	\$20.00

Type of Service	Fees 2023	Fees 2025
switches low/high air), each		
Standpipes, each	\$300.00	\$300.00
Fire alarm systems		
Control panel, R5 Use Group, each	\$50.00	\$50.00
Control panel, non-R5 Use Group, each	\$100.00	\$100.00
Fire alarm systems alarm devices (i.e., smoke detector heads, heat detector heads, pull stations, waterflow alarms)		
1 to 20 devices	\$100.00	\$120.00
21 to 100 devices	\$200.00	\$250.00
101 to 200 devices	\$400.00	\$450.00
201 to 400 devices	\$750.00	\$750.00
401 to 1,000 devices	\$1,150.00	\$1,150.00
Over 1,000 devices	\$1,450.00	\$1,450.00
Fire alarm system security devices (i.e., door locks, electromagnetic releases), each	\$20.00	\$20.00
Fire alarm system signaling devices (i.e., horns, strobes, bells), each	\$10.00	\$10.00
Independent pre-engineered system, each		
Wet chemical system	\$100.00	\$100.00
All other systems	\$200.00	\$200.00
Gas- or oil-fired appliances, each		
R5 Use Group	\$50.00	\$50.00
All other use groups	\$75.00	\$75.00
Metal chimney liner installation, each	\$75.00	\$100.00
Exhaust systems, each		
Commercial kitchen	\$100.00	\$100.00
Smoke control system	\$200.00	\$200.00
Incinerators, each	\$460.00	\$460.00
Crematorium, each	\$460.00	\$460.00
Fuel storage tanks		
R5 Use Group, install, remove or abandon, each	\$80.00	\$85.00
All other use groups, install remove or abandon, each		
Up to 275 gallons	\$100.00	\$100.00
276 gallons to 1,000 gallons	\$200.00	\$200.00
Each additional 500 gallons	\$50.00	\$50.00
Firepump, each	\$100.00	\$100.00
Plumbing Subcode		
Minimum fee	\$85.00	\$85.00
Fixtures (i.e., lavatories, kitchen sinks, basins, urinals, water closets, bathtubs, shower stalls, sill cocks, laundry tubs, floor drains, drinking fountains, dishwashers, garbage disposals, clothes washers and similar devices), each	\$25.00	\$25.00
Stacks, each	\$65.00	\$65.00
Special devices (i.e., grease traps, oil separators, refrigeration units, utility service connections, backflow preventers, gas service interceptors and fuel oil piping), each		
R3 and R5 Use Groups	\$60.00	\$65.00
All other use groups	\$80.00	\$85.00
Utilization equipment (i.e., steam boilers, hot-water		

Type of Service	Fees 2023	Fees 2025
boilers, warm-air furnaces), each		
R3 and R5 Use Groups		\$85.00
All use groups other than R3 and R5	\$150.00	\$150.00
Extension of existing heating systems	\$75.00	\$75.00
Air-conditioning units		
R3 and R5 Use Groups		\$85.00
All use groups other than R3 and R5	\$100.00	\$150.00
Water heaters, each		
R3 and R5 Use Groups		\$85.00
All use groups other than R3 and R5	\$100.00	\$150.00
Gas piping, each		
R3 and R5 Use Groups		\$85.00
All use groups other than R3 and R5	\$100.00	\$150.00
Vapor recovery systems, each	\$100.00	\$100.00
Required annual re-inspections (i.e., cross-connections, backflow preventers)	\$100.00	\$100.00
Medical gas piping, per outlet	\$25.00	\$25.00
VAV boxes	\$25.00	\$25.00
Humidifiers	\$25.00	\$25.00
Premanufactured homes, plan review, and connection inspections	\$250.00	\$250.00
Swimming pools	\$100.00	\$150.00
Mechanical Subcode		
Minimum fee, initial device installed for an R3 or R5 Use Group residential structure	\$85.00	\$85.00
Each additional device after the first, for an inspection by a mechanical inspector for an R5 or R3 Use Group residential structure	\$60.00	\$65.00
Engineering		
Engineering review fee	\$300.00	\$400.00
Review of applications for construction permits which involve new construction, additions, modification of improved lot coverage or other work requiring review as determined by the municipal engineer.		

Current Recreation Fee Schedule with proposed changes

1. Beach Fees	2023 Fee	2024 Fee	Change
a. Family	125	125	
b. Family after June 30	150	150	
c. Individual	30	30	
d. Individual after June 30	35	35	
e. Nanny	30	30	Consolidate with c.
f. Nanny after June 30	35	35	Consolidate with d.
g. Seniors 62+	FREE	FREE	
h. Children under 2 years old	FREE	FREE	
i. Guest Books	\$25 FOR 5 DAYS	\$25 FOR 5 DAYS	
j. Replacement tags	20	20	
k. Guest fee daily-purchased at beach	8	8	
2. Tennis fees	\$25 per season		Consolidate into new #4 below
3. Boat Racks and Rings			Consolidate into new #4 below
a. Racks and rings per season	\$50		
b. Seniors 62+	\$35		
4. Boat Registration	\$5 per vessel	\$5 per vessel	
a. Replacement sticker	\$5 per vessel	\$5 per vessel	
5. Night fishing permit	\$5 per calendar year	\$5 per calendar year	
6. Swim lessons	\$150 per week per student		Consolidate into new #4 below
7. Sailing lessons	\$150 per week per student		Consolidate into new #4 below
8. Summer camp	\$150 per week per student		Consolidate into new #4 below
9. Recreation programs	\$50 to \$500		Consolidate into new #4 below

New Recreation Fee Schedule proposal

1. Beach Fees	2023 Fee	2024 Fee	
a. Family	125	125	
b. Family after June 30	150	150	
c. Individual or Nanny	30	30	
d. Individual or Nanny after June 30	35	35	
e. Seniors 62+	FREE	FREE	
f. Children under 2 years old	FREE	FREE	
g. Guest Books	\$25 for 5 daily passes	\$25 for 5 daily passes	
h. Replacement tags	20	20	
i. Guest fee daily-purchased at beach	8	8	
2. Boat Registration	\$5 per vessel	\$5 per vessel	
a. Replacement sticker	\$5 per vessel	\$5 per vessel	
3. Night fishing permit	\$5 per calendar year	\$5 per calendar year	
4. Commemorative Bench Program	NA	up to \$1500 per bench	
5. Facility Rental Cleaning Fee	NA	up to \$300 per rental	
6. Recreation Programs	\$50 to \$500	\$5-\$1000 per program (including but not limited to youth sports, summer recreation programs, swim lessons, sailing program, special events, trips, and rack and ring program.)	

Recreation Department Fees Explanation of Proposed Changes

Consolidating fees into one "Recreation Program" umbrella will allow me to budget my time into the program and adjust for increase cost of staff, supplies, and vendors. This will also allow me to offer higher priced programs/trips.

Cara Fox

From: Cindy Shaw
Sent: Thursday, November 16, 2023 10:53 AM
To: Mitchell Stern
Cc: Cara Fox
Subject: Fee change

Mitchell,

I would like to make a change to the fee structure for escrow account the next time you do an update to the escrow fees.

I have had several minor residential site plan applications over the last few years that have been simple applications (i.e. signs, change building entrance and sidewalks). Most of them only require a review by Bill Ryden and take only one meeting to hear. Minor site plan applications do not have any variances associated with them. The escrow fee requested is high for these types of applications.

Currently our fee structure is as follows for both minor and major site plans:

<u>Chapter 111 – FEES</u>	111-3 G (5) Escrow Fees
Non-residential site plan	\$10,000

I would like to change it to:

Non-residential Major site plan	\$10,000
Non-residential Minor site plan	\$6,000

Let me know if this can be done the next time the fee structure is updated.

Cindy

Cynthia Shaw
Planning and Zoning Board Administrator
420 Boulevard
Mountain Lakes, NJ 07046
973-334-3131 ext 2005
Monday 8:30 to 4:30, Thursday 12:30 to 4:30

Cara Fox

From: Robert Oostdyk <roostdyk@murphymckeonlaw.com>
Sent: Monday, February 3, 2025 4:10 PM
To: Cara Fox
Subject: trees

CAUTION: This email has originated from outside of the organization. Do not click links or open attachments un

Cara,

This is the fee change (NOT increase in fee but a decrease in the fee exemption number of trees) for the tree ordinance:

Section . Chapter 111, Section 111-3 entitled "Fee Schedule", of the Revised General Ordinance of the Borough of Mountain Lakes shall be amended by the following amendment to subsection P which shall read, in its entirety, as follows:

P. Fee for Tree Removal Permit. An applicant for a tree removal permit under § 102-36 shall pay a fee of \$425 per tree removed. Fees received shall be deposited in the Borough Shade Tree Fund. No fee is required for the removal of 50% of the trees from the setback area up to a maximum of two trees in a twelve-month period.

This is why Sandy Batty recommended the change:

The ordinance is not clear on how many trees can be removed without a fee. I remember that we wanted to decrease the allowed number to two. This is reflected in Ord. 102-38A Exemptions, which allows for two trees to be exempted. However, Ord. 102-36D(4) sets the standard at removal of three trees, and the Ord. 111 sets the Fee for three trees. I believe we should make these consistent at two. (Perhaps this could be done as part of the adoption of the revised Land Use Ordinance.)

Robert H. Oostdyk, Jr., Esq.

MURPHY McKEON P.C.

COUNSELLORS-AT-LAW
901 ROUTE 23 SOUTH, 2ND FLOOR
POMPTON PLAINS, NEW JERSEY 07444
TELEPHONE: (973) 835-0100
FACSIMILE: (973) 835-1732

roostdyk@murphymckeonlaw.com

FRAUD ALERT: NEVER wire transfer money without calling this office and speaking to us personally on the phone to confirm the wiring information. Even if an email looks like it has come from this office or someone involved in your transaction, you MUST in every instance call us first to verify the information before sending any money via wire transfer.

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 77-25

RESOLUTION AUTHORIZING THE PAYMENT OF BILLS

WHEREAS, the Borough Manager has reviewed and approved purchase orders requested by the Department Heads; and

WHEREAS, the Finance Office has certified that funds are available in the proper account; and

WHEREAS, the Borough Treasurer has approved payment, upon certification from the Borough Department Heads that the goods and/or services have been rendered to the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, County of Morris, State of New Jersey, that the current bills, dated **February 10, 2025** and on file and available for public inspection in the Office of the Treasurer and approved by him for payment, be paid.

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on February 10, 2025.

Cara Fox, Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Cannon						
Howley						
Menard						
Sheikh						
Tsai						
Mullenburg						
Barnett						

List of Bills - CLAIMS/CLEARING CHECKING ACCOUNT

Meeting Date: 02/10/2025 For bills from 01/24/2025 to 02/05/2025

Check#	Vendor	Description	Payment	Check Total
25166	3861 - AMAZON CAPITAL SERVICES	PO 30238 POLICE: ORDER# multi	198.65	
		PO 30300 POLICE: ORDER# 111-4138362-0773845	13.99	
		PO 30310 POLICE: ORDER# 111-2788818-4597839	217.79	430.43
25167	3861 - AMAZON CAPITAL SERVICES	PO 30313 POLICE: ORDER# MULTI ORDER #'S	462.29	
		PO 30316 DPW: ORDER# 111-0181755-5521847	26.99	
		PO 30327 DPW - ORDER# 111-9439581-9652221	59.97	
		PO 30338 RACKS: ORDER# 111-5706213-6393046	9.99	559.24
25168	189 - ANCHOR ACE HARDWARE	PO 30326 POLICE: MISC SUPPLIES - ACCT# 001413	93.51	
		PO 30385 FIRE DEPT: JAN 2025 INVOICES - ACCT# 014	1,403.00	1,496.51
25169	545 - CERTIFIED SPEEDOMETER SVC., INC	PO 30361 POLICE: VEHICLE CALIBRATION	44.00	44.00
25170	4135 - CGP&H, LLC	PO 30352 PROFESSIONAL SERVICES FOR NOVEMBER/DECEM	372.00	372.00
25171	4090 - CLEAN MAT SERVICES, LLC	PO 30203 2025 FLOOR MAT SERVICE / DPW JAN - MAR -	183.36	183.36
25172	4711 - CONSENSUS MEDICAL GROUP, LLC	PO 30344 POLICE: MEDICAL EXAMS - DR. GILBERT POON	445.36	445.36
25173	2396 - COUNTY WELDING SUPPLY CO.	PO 30353 DPW - EQUIPMENT & TOOLS	149.90	149.90
25174	2887 - D&L PAVING CONTRACTORS, INC.	PO 29657 BOULEVARD WALKWAY RESURFACING PROJECT	1,573.90	1,573.90
25175	4102 - DURABLE DOOR	PO 30339 DPW - BUILDING MAINTENANCE - GARAGE DOOR	441.43	441.43
25176	653 - GANNET NEW YORK/NEW JERSEY LOCALIQ	PO 30391 PLANNING/ZONING - 2025 ADVERTISING - BLA	61.39	
		PO 30401 CLERK: ADVERTISING JANUARY 2025 - ACCT#	201.10	262.49
25177	2429 - GARDEN STATE FIREWORKS	PO 30349 2025 FIREWORKS DEPOSIT	10,000.00	10,000.00
25178	4605 - GEESE CHASERS NORTH JERSEY, LLC	PO 28849 PARKS: GOOSE MANAGEMENT ANNUAL MAINTENAN	1,150.00	1,150.00
25179	196 - GRIFFITH-ALLIED TRUCKING, LLC	PO 30341 DPW - UNLEADED GASOLINE - MCCPC CONTRACT	4,908.46	4,908.46
25180	911 - HOME DEPOT CREDIT SERVICES	PO 30398 BH: SHORTPAID AMOUNT FROM JULY 2024	17.39	17.39
25181	4670 - HUTCHINS HVAC, INC	PO 30372 HVAC SERVICE REQUEST	375.00	375.00
25182	3817 - IL TORRENTE PIZZA	PO 29492 DPW - MEALS - BLANKET	66.46	
		PO 30345 DPW - MEALS - BLANKET	126.12	192.58
25183	4715 - INFINISOURCE, INC	PO 30383 EARLY TERMINATION FEE	8,596.08	
		PO 30383 EARLY TERMINATION FEE	234.00	8,830.08
25184	633 - JASON DIMICK	PO 30364 POLICE: REIMBURSEMENT FOR JASON DIMICK	151.32	151.32
25185	859 - JCP&L	PO 30368 STREET LIGHTING - ASSORTED ACCOUNTS - DE	1,042.10	
		PO 30377 ACCT#100 075 505 725 - BILL PRD: 12/24 -	4.65	
		PO 30378 ACCT#100 154 666 612/ BILL PRD: 12/21 -	5.07	
		PO 30379 ACCT#100 141 241 693 BILL PRD 12/20 - 1/	54.55	
		PO 30386 MAST ACCT# 200 000 021 275 / BILL DATE:	2,032.78	
		PO 30387 MAST ACCT#200 000 054 011 BILL DATE: JAN	4.73	3,143.88
25186	859 - JCP&L	PO 30388 MASTER ACCT#200 000 574 000/ BILL DATE:	43.74	43.74
25187	3789 - JPMONZO, MUNICIPAL CONSULTING LLC.	PO 30287 FINANCE: WEBINAR - MONICA GOSCICKI	50.00	50.00
25188	4699 - MAGNUM VAC SERVICE	PO 30090 WATER SERVICE LINE IDENTIFICATION	2,650.00	2,650.00
25189	1338 - MGL PRINTING SOLUTIONS, LLC	PO 30317 FINANCE: 1099 ENVELOPES	112.50	112.50
25190	3922 - MOUNTAIN LAKES BAGEL, INC	PO 30346 DPW - MEALS - BLANKET	44.44	44.44
25191	1371 - MTN. LAKES BOARD OF EDUCATION	PO 30370 FEBRUARY 2025 MTN LAKES SCHOOL DISTRICT	2,153,145.34	2,153,145.34
25192	1394 - MTN. LAKES PUBLIC LIBRARY	PO 30362 FEBRUARY 2025 MTN LAKES PUBLIC LIBRARY A	32,173.50	32,173.50
25193	3168 - MUNICIPAL CLERKS ASSOC OF MORRIS CO	PO 30360 2025 MUNICIPAL CLERK MEMBERSHIP DUES - C	60.00	60.00
25194	4522 - NATIONAL HIGHWAY PRODUCTS, INC	PO 29946 S & R - SIGNS - MCCPC CONTRACT # 28	260.00	260.00
25195	479 - NEW JERSEY HILLS MEDIA GROUP	PO 30392 ZBOA/PLANNING BRD - 2025 - BLANKET ACCT	178.56	178.56
25196	2595 - NO JERSEY MUNICIPAL EMPLOYEE BENEFITS FU	PO 30376 FEBRUARY 2025 DENTAL PREMIUMS - GROUP 16	2,923.00	2,923.00
25197	2727 - ONE CALL CONCEPTS, INC.	PO 30389 ACCT# 12-BML / 2025 JAN - APRIL BLANKET	167.30	167.30
25198	2968 - OPTIMUM	PO 30194 DPW: 2025 INTERNET SERVICES ACCT# 07876-	12.94	12.94
25199	2968 - OPTIMUM	PO 30195 DPW: 2025 INTERNET SERVICES ACCT# 07876-	161.21	161.21
25200	4199 - PASSAIC METAL & BUILDING SUPPLIES	PO 30393 FIRE BAY: SUPPLIES	196.33	196.33
25201	4143 - PITNEY BOWES GLOBAL FINANCIAL SVCS, LLC	PO 30381 POSTAGE MACHINE: 2025 LEASE - ACCT# 3312	448.05	448.05
25202	4151 - PITNEY BOWES, INC	PO 30354 ADMIN: POSTAGE INK ORDER# 24234003	124.98	124.98
25203	1832 - RYDIN DECAL	PO 30305 ADMIN: TRAIN DECALS	272.00	272.00
25204	1937 - SPECTRUM COMMUNICATIONS	PO 30343 POLICE: VEHICLE ANTENNA REPAIR STATE CPN	400.00	400.00
25205	3931 - SPORTDECAL, INC	PO 30335 2025 LIFEGUARD SHIRTS	295.15	295.15
25206	2774 - STAPLES CONTRACT & COMMERCIAL, LLC	PO 30275 ORDER: 7650073605	1,793.25	1,793.25
25207	3944 - STEVEN M. GLUCK	PO 30350 CONSTRUCTION: REIMBURSEMENT	55.00	55.00
25208	434 - THE COMMUNITY CHURCH OF ML	PO 30363 RENTAL SPACE FOR HPC - FEB 2025	500.00	500.00
25209	1343 - TILCON NY, INC	PO 30351 S & R - RECYCLING OF ASPHALT - MCCPC CON	750.00	750.00
25210	881 - TMS, INC	PO 30189 ADMIN: 2025 DNS HOSTING / ACCT# GTI - BL	25.24	25.24
25211	1536 - TREAS, STATE OF NJ - D.O.H.	PO 30395 JANUARY 2025 DOG LICENSE FEES	399.00	399.00
25212	4088 - TURN OUT UNIFORMS, INC	PO 29991 POLICE" BODY ARMOR - CARMELLO IMBRUGLIA	1,274.26	
		PO 30015 POLICE: BODY ARMOR - BARBARA GIULIANO	1,274.26	
		PO 30366 POLICE: UNIFORM PURCHASES - DEREK BLAIR	106.99	2,655.51
25213	2977 - UGI ENERGY SERVICES, INC.	PO 30356 CUST# J0001077, 1078, 1079 - MOUNTAIN LA	2,041.28	2,041.28
25214	4587 - VERIZON	PO 30369 ADMIN: ACCT# 357-361-129-0001-26 - INTER	250.04	250.04
25215	2186 - W.E. TIMMERMAN CO., INC	PO 30141 DPW - EQUIPMENT REPAIR - LEAF VAC	2,236.91	2,236.91
25216	4031 - WAYNE ELECTRICAL SUPPLY CO.	PO 30394 FIRE BAY: SUPPLIES	86.46	86.46

TOTAL

2,239,239.06

List of Bills - CLAIMS/CLEARING CHECKING ACCOUNT

Meeting Date: 02/10/2025 For bills from 01/24/2025 to 02/05/2025

Check#	Vendor	Description	Payment	Check Total	
Summary By Account					
ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
01-201-20-100-020	GENERAL ADMIN - OTHER EXPENSE	1,667.68			
01-201-20-120-020	MUNICIPAL CLERK - OTHER EXP'S	270.09			
01-201-20-130-020	FINANCE - OTHER EXPENSES	1,118.75			
01-201-20-140-020	COMPUTER SERVICES	275.28			
01-201-21-180-020	PLANNING BOARD - OTHER EXPENSE	94.86			
01-201-21-181-020	HISTORIC PRESERVAT'N COMMITTEE	500.00			
01-201-21-185-020	BD OF ADJUST - OTHER EXPENSES	145.09			
01-201-22-195-020	UNIFORM CONST - OTHER EXPENSES	55.00			
01-201-23-220-020	GROUP INSURANCE PLANS-EMPLOYEE	2,923.00			
01-201-25-240-020	POLICE DEPT - OTHER EXPENSES	1,688.54			
01-201-25-255-020	FIRE DEPT - OTHER EXPENSES	1,403.00			
01-201-26-290-020	STREETS & ROADS - OTHER EXP.	1,001.37			
01-201-26-310-020	BLDG & GROUNDS - MUNIC BLDG	558.36			
01-201-26-315-020	VEHICLE REPAIRS & MAINTENANCE	26.99			
01-201-28-370-020	PARKS & PLAYGROUNDS OTHER EXP.	10,305.14			
01-201-29-390-020	AID TO PUBLIC LIBRARY	32,173.50			
01-201-31-435-020	ELECTRICITY - ALL DEPARTMENTS	59.20			
01-201-31-436-020	ELECTRICITY - STREET LIGHTING	41.49			
01-201-31-447-020	PETROLEUM PRODUCTS	4,908.46			
01-203-20-100-020	(2024) GENERAL ADMIN - OTHER EXPENSE		5,329.08		
01-203-25-240-020	(2024) POLICE DEPT - OTHER EXPENSES		445.36		
01-203-26-290-020	(2024) STREETS & ROADS - OTHER EXP.		3,313.37		
01-203-28-370-020	(2024) PARKS & PLAYGROUNDS OTHER EXP.		3,267.00		
01-203-28-375-020	(2024) MAINT OF PARKS (BEACHES/LAKES)		1,150.00		
01-203-31-435-020	(2024) ELECTRICITY - ALL DEPARTMENTS		4.73		
01-203-31-436-020	(2024) ELECTRICITY - STREET LIGHTING		1,000.61		
01-203-31-437-020	(2024) NATURAL GAS		2,041.28		
01-207-55-000-000	LOCAL SCHOOL TAXES PAYABLE			2,153,145.34	
01-260-05-100	DUE TO CLEARING			0.00	2,228,912.57
TOTALS FOR	Current Fund	59,215.80	16,551.43	2,153,145.34	2,228,912.57
02-200-40-700-330	Bullet Proof Vests	2,548.52			
02-200-40-700-490	AMERICAN RESCUE PLAN	2,650.00			
02-260-05-100	DUE TO CLEARING			0.00	5,198.52
TOTALS FOR	FEDERAL AND STATE GRANTS	5,198.52	0.00	0.00	5,198.52
04-215-55-998-000	2023 CAPITAL ORD. 13-23 BORO HALL RENOV.			17.39	
04-215-55-999-000	2024 CAPITAL ORDINANCE 3-24			1,856.69	
04-260-05-100	DUE TO CLEARING			0.00	1,874.08
TOTALS FOR	General Capital	0.00	0.00	1,874.08	1,874.08
05-201-55-520-520	Water Operating - Other Expenses	172.37			
05-203-55-520-520	(2024) Water Operating - Other Expenses		2,266.78		
05-260-05-100	DUE TO CLEARING			0.00	2,439.15
TOTALS FOR	Water Operating	172.37	2,266.78	0.00	2,439.15
07-203-55-520-520	(2024) Sewer Operating - Other Expenses		43.74		
07-260-05-100	DUE TO CLEARING			0.00	43.74
TOTALS FOR	Sewer Operating	0.00	43.74	0.00	43.74

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
13-260-05-100	DUE TO CLEARING			0.00	399.00
13-295-56-000-000	DOG LICENSE FEES-DUE STATE NJ			399.00	
TOTALS FOR	Animal Trust	0.00	0.00	399.00	399.00
20-260-05-100	Due to Clearing			0.00	372.00
20-300-60-000-000	RESERVE FOR AFFORDABLE HOUSING			372.00	
TOTALS FOR	AFFORDABLE HOUSING	0.00	0.00	372.00	372.00

Total to be paid from Fund 01 Current Fund 2,228,912.57
 Total to be paid from Fund 02 FEDERAL AND STATE GRANTS 5,198.52
 Total to be paid from Fund 04 General Capital 1,874.08
 Total to be paid from Fund 05 Water Operating 2,439.15
 Total to be paid from Fund 07 Sewer Operating 43.74
 Total to be paid from Fund 13 Animal Trust 399.00
 Total to be paid from Fund 20 AFFORDABLE HOUSING 372.00
 2,239,239.06

Checks Previously Disbursed

25165 STATE OF NJ - PWT DIVISION OF TAXAT PO# 30397 STATE OF NJ - PUBLIC COMMUNITY WAT 327.69 2/05/2025
 327.69

Totals by fund	Previous Checks/Voids	Current Payments	Total
Fund 01 Current Fund		2,228,912.57	2,228,912.57
Fund 02 FEDERAL AND STATE GRANTS		5,198.52	5,198.52
Fund 04 General Capital		1,874.08	1,874.08
Fund 05 Water Operating	327.69	2,439.15	2,766.84
Fund 07 Sewer Operating		43.74	43.74
Fund 13 Animal Trust		399.00	399.00
Fund 20 AFFORDABLE HOUSING		372.00	372.00
BILLS LIST TOTALS	327.69	2,239,239.06	2,239,566.75

List of Bills - (1210101001001) PAYROLL AGENCY-CASH-PROVIDENT BANK

Payroll Agency Account

Meeting Date: 02/10/2025 For bills from 01/24/2025 to 02/05/2025

Check#	Vendor	Description	Payment	Check Total
5086	4521 - INTERNATIONAL BROTHERHOOD OF TEAMSTERS L	PO 30384 DPW UNION DUES - JAN 2025	361.00	361.00
5087	1392 - MTN. LAKES POLICE ASSOCIATION	PO 30371 POLICE UNION DUES - FEB 2025	275.00	275.00
TOTAL				636.00

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
12-101-01-001-001	PAYROLL AGENCY-CASH-PROVIDENT BANK			0.00	636.00
12-200-00-000-800	POLICE UNION DUES	275.00			
12-200-00-000-801	DPW UNION DUES	361.00			
TOTALS FOR	Payroll Agency Account	636.00	0.00	0.00	636.00

Total to be paid from Fund 12 Payroll Agency Account

636.00

636.00

List of Bills - (3310101001001) CASH - RECREATION**Recreation Trust**

Meeting Date: 02/10/2025 For bills from 01/24/2025 to 02/05/2025

Check#	Vendor	Description	Payment	Check Total
5712	4708 - AMPT STUDIO, LLC	PO 30337 RECREATION VOLLEYBALL TSHIRTS	661.00	661.00
5713	4290 - DeCAMP BUS LINES	PO 29856 SKI CLUB BUSES FOR 2025 - REMAINING BALA	4,500.00	4,500.00
TOTAL				5,161.00

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
33-101-01-001-001	CASH - RECREATION			0.00	5,161.00
33-600-00-090-000	Recreation Trust Reserves			5,161.00	
TOTALS FOR	Recreation Trust	0.00	0.00	5,161.00	5,161.00

Total to be paid from Fund 33 Recreation Trust

5,161.00

5,161.00

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 78-25

RESOLUTION AUTHORIZING THE TRANSFER OF CURRENT FUND APPROPRIATIONS

WHEREAS, there were excess appropriations to the 2024 Appropriation Budget for the Current Fund; and

WHEREAS, other appropriations are insufficient to meet current needs.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey that, as authorized by N.J.S.A. 40A:4-58, the Chief Financial Officer (CFO) is hereby authorized and directed to make the following transfers:

FROM:

<u>ACCOUNT NO.</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
<u>OTHER EXPENSES:</u>		
01-203-20-155-020	LEGAL	<u>\$3,000.00</u>
	TOTAL	<u>\$3,000.00</u>

TO:

<u>ACCOUNT NO.</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
<u>OTHER EXPENSES:</u>		
01-203-31-436-020	STREET LIGHTING	<u>\$3,000.00</u>
	TOTAL	<u>\$3,000.00</u>

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on February 10, 2025.

Cara Fox, Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Cannon						
Howley						
Menard						
Sheikh						
Tsai						
Muilenburg						
Barnett						

BOROUGH OF MOUNTAIN LAKES
RESOLUTION 78-25
BUDGET TRANSFERS 2024
EXPLANATION OF TRANSFERS

Current Budget:

Funds Available

OTHER EXPENSES

Legal – There are funds remaining in the litigation and tax appeals appraisals line items because the services were not needed. \$3,000

Funds Needed

OTHER EXPENSES

Street Lighting – The invoices for the street lighting were more than what was budgeted for the year. \$3,000

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 79-25

**RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT FOR LAKES MANAGEMENT BETWEEN
THE BOROUGH OF MOUNTAIN LAKES AND TIGRIS AQUATIC SERVICES LLC**

WHEREAS, there exists the need for professional environmental management in connection with the management of Borough owned lakes for the Borough of Mountain Lakes; and

WHEREAS, the Borough of Mountain Lakes has decided to award the contract for this service as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Tigris Aquatic Services LLC has submitted a proposal indicating that lakes management treatment will be provided for an annual fee not to exceed \$75,000.00 per year; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Professional Services" and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, County of Morris, State of New Jersey:

- Section 1.** The Borough Manager and Borough Clerk are hereby authorized and directed to execute an agreement with Tigris Aquatic Services LLC for lakes management and for water quality management services to the Borough of Mountain Lakes as set forth in a proposal submitted by Tigris Aquatic Services LLC, for a fee not to exceed \$75,000.00 per year.
- Section 2.** This contract is awarded as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the contract is for a service performed by a person(s) authorized by law to practice a recognized profession that is regulated by law.
- Section 3.** The term of this agreement shall be from March 1, 2025 through December 31, 2025.
- Section 4.** A notice of this action shall be printed once in the legal newspaper of the Borough of Mountain Lakes.

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on February 10, 2025.

Cara Fox, Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Cannon						
Howley						
Menard						
Sheikh						
Tsai						
Muilenburg						
Barnett						

CERTIFICATION OF THE AVAILABILITY OF FUNDS

01-201-28-375-023 - Lake Treatment Program - \$65,000

01-201-28-375-025 - Nutrient Inactivation - \$10,000


Monica Goscicki, CFO

**Borough of Mountain Lakes
Contract Review Checklist**

Vendor / Professional: Tigris

Service Provided: Lake Management

Item	Applicability	Standard	Reviewed	Verified
Attorney Review	All Contracts	Confirmation that agreement has been reviewed by Borough Attorney	✓	✓
Financial Impact	All Contracts	Has the economic impact of the transaction been evaluated?	✓	✓
Insurance	All Contracts	Proof of Insurance As Required BY RFP, Specifications, or Contract	✓	✓
Invoice Process	All Contracts	Consistent with local public contracts law and Borough procedure	✓	✓
Iran Investment Disclosure	All Contracts	Disclosure of Investments Activities in Iran	✓	✓
Non-Collusion	All Contracts	Non-Collusion Affidavit Signed	✓	✓
Non-Performance	All Contracts	Provision addressing consequences for non-performance / breach of agreement	N/A	N/A
Payment Terms	All Contracts	Do standard payment terms apply?	✓	✓
Standard Agreement	All Contracts	Agreement Provided	✓	✓
Term	All Contracts	1-year professional services, 2-year goods / services, or statutory exemption	✓	✓
Termination	All Contracts	Right to terminate where appropriate	N/A	N/A
Affirmative Action Form	Goods & Services; Professional Services	Employee Information Report Provided	✓	✓
Business Entity / Corporate Disclosure	Goods & Services; Professional Services	Disclosure Affidavit Provided	✓	✓
Business Registration	Goods & Services; Professional Services	Copy of Registration Provided	✓	✓
Confidentiality	Goods & Services; Professional Services	Contract provisions where appropriate	N/A	N/A
Renewal	Goods & Services; Professional Services	Provision concerning renewal included where appropriate	N/A	N/A
Political Contribution Disclosure	Professional Services	Disclosure Language In Contract Form; Form Completed	✓	✓
Qualifications	Professional Services	Proof of professional licenses / certifications	N/A	N/A
Debarment	All Contracts	Vendor Not Currently On State Debarment List	✓	✓

Reviewed by: Cara Fox **Date:** 1/22/25

Verified by: ltk **Date:** 1/22/25

**PROFESSIONAL SERVICES AGREEMENT
BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY**

THIS AGREEMENT, made this ___ day of _____, 20___ by and between the Borough of Mountain Lakes, in the County of Morris, a Municipal Corporation of the State of New Jersey, having an office at 400 Boulevard, Mountain Lakes, New Jersey, hereinafter referred to as the "Municipality", and Tigri's Aquatic Services LLC, Party of the Second Part, herein called the "Contractor".

WITNESSETH that the parties to these presents, each in consideration of the agreements on the part of the other, herein contained, do hereby agree as follows:

1. The Contractor will, at their expense, furnish all labor and professional services and complete the work proposed to be done for the Municipality, and will complete and finish the same to the satisfaction and approval of the Municipality, in the manner and within the time hereinafter limited, and in accordance with the Proposal dated 1/2/25 which is attached hereto fully incorporated and with the same effects as if the same had been set forth in the body of this agreement. The amount of the Agreement shall not exceed \$75,000.00.
2. The Contractor agrees to make payments of all proper charges for labor and materials required in the aforementioned work, and to defend, indemnify, and save harmless the Municipality, its officers, employees, agents and servants, and each and every one of them, against and from all damages to which the said parties must be put, by reason of injury to the person or property of others resulting from performance of said work, or through the negligence of the Contractor, or through any improper or defective machinery, implements, or omission on the part of the Contractor, or his agent or agents, employees or servants.
3. It is also agreed and understood that the acceptance of the final payment of the Contract shall be considered as a release in full of all claims against the Municipality, or any of its officers, employees, agents and servants, arising out of or by reason of, the work done and materials furnished under this Contract.
4. In consideration of the premises, the Municipality hereby agrees to pay to the Contractor for the said work, when fully completed at the prices specified in the Contractor's Proposal. It is understood that the amount to be paid shall be the total based on the said prices contained in the said Proposal and made a part of this Contract, for the work actually done.
5. Political Contribution Disclosure. This contract has been awarded to Contractor based on the merits and abilities of Contractor to provide the goods or services as described herein. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the undersigned does hereby attest that Contractor, its subsidiaries, assigns or principals controlling in excess of 10% of the

company has neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the Borough of Mountain Lakes if a member of that political party is serving in an elective public office of the Borough of Mountain Lakes when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Borough of Mountain Lakes when the contract is awarded.

6. During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status so affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates or pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regarding to age, race, creed, color, national origin, ancestry, marital status or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to attempt in good faith to schedule minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).

IN WITNESS WHEREOF, the Borough of Mountain Lakes has caused these presents to be signed by its proper officers and caused its corporate seal to be affixed, and Contractor has caused these presents to be signed by its proper officers and caused its corporate seal to be affixed, the day and year first above written.

WITNESS ATTEST:
BOROUGH OF MOUNTAIN LAKES

BOROUGH OF MOUNTAIN LAKES
IN THE COUNTY OF MORRIS

By: _____

By: _____

(SEAL)

Date

WITNESS ATTEST:
CONTRACTOR

CONTRACTOR

By: Stephanie J. Rodriguez

By: David Pullins
David Pullins - CEO

(SEAL)

1/10/2025

Date



2 January 2025

Borough of Mountain Lakes – 2025 Lake Management
MOUNTAIN LAKES, NEW JERSEY

Borough of Mountain Lakes
C/O Mitchell Stern
400 Boulevard
Mountain Lakes, NJ 07046
mstern@mtnlakes.org

RE: 2025 Lake Management Program

TIGRIS Aquatic Services is pleased to present the following cost proposal to provide lake management services to the above-mentioned site during the 2025 management season.

Lake Management Program

The management program for the Borough of Mountain Lakes in 2025 will include weekly site surveys of each lake, pond, and canal on every Monday basis from the last week in March through the first week in October. A weekly report will be provided to the Borough including all observation and data collected along with in situ water quality monitoring of dissolved oxygen, water temperature and water clarity. A Senior Staff member of Tigris will attend the monthly Lakes Management Committee meetings from March through December on a once per month basis.

In addition to the weekly surveys, water samples will be collected on one date during the months of June, July and August for analysis of total phosphorus, nitrate nitrogen and turbidity. Water samples will also be collected on a weekly basis for analysis of E. Coli bacteria at Island Beach and Birchwood Beach on every Monday basis from the week before Memorial Day to the week before Labor Day. The weekly temperature and dissolved oxygen profile will be collected at Birchwood Lake. Lastly, twice per month during the months of June, July and August water samples will be collected for phytoplankton identification and enumeration at the cells per milliliter analytical detail.

Birchwood Lake: The 2025 program will include the use of flumioxazin herbicide to provide management of nuisance submersed aquatic plant growth to maintain open water in the swim lanes and beach area. Plants in the swimming area of the lake are usually sparse but still require treatment to keep the swimming area in suitable condition. Water lily management will be aggressively pursued in this lake with foliar herbicide applications in 2025.

Crystal Lake: It is expected that at least one application of Aquastrike will be required to provide control of nuisance densities of bassweed. Historically, algae control has been minimal and



WWW.TIGRISUSA.COM



INFO@TIGRISUSA.COM



888.243.0891

copper sulfate has been used primarily in this lake. However, after the observed algal blooms in 2024, and corresponding increases in total phosphorous, it is recommended that an aluminum sulfate treatment be performed. It is also expected that at least one herbicide application targeting water lily growth will be required in 2025.

Sunset Lake: Management at Sunset Lake in 2025 will be dictated by how rapid the water level recovers. It is expected, and will be planned that a full management program be performed for this lake in 2025, with an emphasis on managing plant growth that persists following the water level returning to full pool level.

Olive, Shadow, Cove & Grunden's: Due to their small size, these interconnected lakes may require frequent maintenance. Filamentous and unicellular algae genera will be targeted with copper-based algaecides such as chelated copper algaecides. Should vascular plants become problematic, they will be managed by contact herbicides, depending on the observed target species. The addition or supplementation of aeration in these ponds will continue to be emphasized to ensure sustainable healthy seasonal conditions. Bacterial enhancement will be provided for each of these small basins. Olive and Shadow Lake will also be targeted with a phosphorus reducing compound during the 2025 management season.

Mountain Lake: Sonar was applied to Mountain Lake in 2023 for Eurasian water milfoil management. Whole-lake herbicide treatment is still not expected in 2025, with spot treatments for control of bassweed expected to be the primary management focus. It is anticipated that algae control will be accomplished through appropriate applications of copper sulfate, although chelated copper algaecides will also be incorporated when appropriate to provide an alternative to copper sulfate.

Management of water primrose needs to also be a focus of the lake management program in 2025. This can include volunteer hand-pulling efforts starting in early summer through early fall, or this can be done through the application of herbicide during the same timeframe. Successful management of this plant will require coordinated effort with the Lake Committee to understand and implement a management approach successfully.

Wildwood Lake: Due to the smaller size of Wildwood Lake, costs are similar, and the products are used interchangeably. Herbicide choice in 2025 will depend on existing conditions. Eurasian watermilfoil is not expected to be abundant since it was only observed at minimal trace densities during the 2024 management season. Copper sulfate or chelated copper algaecides will be used for algae control. One alum application is planned and is included in the annual management program. Growth of brittle naiad and bassweed has developed more extensively over the past several management seasons and is expected to require more aggressive management through the course of this management program.

Management of water primrose needs to also be a focus of the lake management program in 2025. This can include volunteer hand-pulling efforts starting in early summer through early fall, or this can be done through the application of herbicide during the same timeframe. Successful management of this plant will require coordinated effort with the Lake Committee to understand and implement a management approach successfully.

Canal: On a monthly basis the canal will be paddled with a canoe or kayak to survey for aquatic plant growth as well as the general condition of the canal with regard to garbage, deposition and general debris. Herbicide applications will be performed as necessary.

Dam Vegetation Management: On at least one date during August or September, an herbicide application will be performed to target any vegetation growing on the dam faces of Mountain, Wildwood, Crystal and Birchwood Lakes

Algae Control

For algae control in ponds, TIGRIS routinely applies an EPA-registered, chelated copper algicide such as Cutrine-Plus® or Captain® for algae control, or copper sulfate. These copper formulations are designed for application on a regularly scheduled basis, in low dosage amounts, to maximize algae control and minimize the potential for adverse environmental risk. A frequent, low-dose schedule typically establishes control early in the season. There are no water use restrictions associated with the application of these products at labeled rates.

Aeration Maintenance

The management program for Mountain Lakes in 2025 will include the maintenance and services of the two diffused aeration system compressors at Birchwood Lake, and the one diffused aeration compressor system at Shadow Lake. Maintenance will include changing the internal components as part of the maintenance kits, balancing the compressors to ensure all in-water diffusers are working. This DOES NOT include maintenance of the in-water diffusers, which were all working in the fall of 2024, and are maintenance free as part of the normal operation.

Category HAB – General Harmful Algal Bloom Permit

Effective July 1st, 2024, NJDEP implemented this new permit requirement for the application of nutrient inactivation products (alum, etc.) and bacterial enhancement products (bacteria, etc.). This permit requires significant monitoring and testing in accordance with the permit requirements. The details have been shared with the Borough and Lake Committee, and can be forwarded upon request. NJDEP has stated that there should be no more than a thirty day review period prior to the approval of each permit. Pricing for the permit applications and monitoring are located under Contract Pricing.

Aquatic Vegetation Management (AVM)

One or more aquatic herbicides may be used in the execution of this contract including: **Roundup Pro®** (glyphosate), **Sonar®** (fluridone), **Clipper®** (flumioxazin), **Tribune®** (diquat dibromide), **Polaris** (imazapyr) and/or a copper based herbicide. It must be emphasized that a frequent, low-dose schedule typically establishes control early in the season. A copy of the label(s) for the Aquatic Pesticide(s) used will be available, if requested.

Control of some aquatic plant species such as watermeal (*Wolffia sp.*) or coontail (*Ceratophyllum demersum*) require a maximum allowable dose rate of herbicide. The efficacy of such treatment is highly dependent upon proper flow and other seasonal environmental conditions. Treatments are conducted in strict accordance with NJDEP regulations

which restrict the materials, concentrations and frequency of treatment. In many instances, due to environmentally regulated downstream waters (i.e., drinking supply, irrigation, trout production etc.), NJDEP may restrict application rates. Therefore, extent or duration of aquatic plant and/or algae control treatments cannot be warranted.

It should be recognized that delaying initial treatment until dense surface algae mats have formed further limits treatment effectiveness. Such delays also increase adverse environmental risks (i.e., to fish) by reducing levels of dissolved oxygen. TIGRIS is not liable in the unlikely event that fish life is adversely affected due to environmental conditions.

We sincerely appreciate the opportunity to submit this proposal for your consideration. Should you have any questions or require further information, **please do not hesitate to contact me directly at 908.310.9037.**

Best Regards,

Bob Schindler, Operations Director
Tigris Aquatic Services
rschindler@tigrisusa.com
www.tigrisusa.com

AQUATIC PESTICIDE WATER USE RESTRICTIONS

Label instructions relating to resident or general public safety:

Do not apply this product in a way that will contact persons, directly or through drift. **For aquatic uses, **do not enter treated areas while treatments are in progress or until application of product has been completed**. Only protected handlers may be in the area during application.

AQUATHOL-K®	<i>no water use restrictions</i> on irrigation/no pet or livestock watering for 7 days
CAPTAIN®	<i>no water use restrictions</i>
CAPTAIN XTR®	<i>no water use restrictions</i>
CLEARCAST®	<i>no irrigation for 120 days</i>
CLIPPER®	<i>1-5 day water use restriction</i> on irrigation depending on dosage
DIQUAT®	<i>1-5 day water use restriction</i> on irrigation depending on dosage
FLUMIGARD®	<i>1-5 day water use restriction</i> on irrigation depending on dosage
HABITAT®	<i>no irrigation for 120 days</i>
ROUNDUP PRO®	<i>no water use restrictions</i>
TRIBUNE®	<i>1-5 day water use restriction</i> on irrigation depending on dosage

The above represents products that TIGRIS may use in the management of your aquatic site. This does not indicate that all, or even many, of these products will be used at your specific site. Specific dates of application will be provided upon request. Please speak with your Territory Manager to discuss product specifics and application timing. When applicable, water use restrictions will be posted in the vicinity at the time of treatment. The client is responsible for removal of any treatment postings upon expiration. For general questions about pesticides contact National Pesticide Information Center 800-858-7378; for pesticide emergencies contact NJ Poison Information & Education System 800-222-1222; for pesticide regulations, complaints and health referrals contact NJDEP Pesticide Control Program 609-984-6568.

PERMITS – New Jersey

Pesticide applications are regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). In New Jersey, the Pesticide Control Program (PCP) within the New Jersey Department of Environmental Protection (NJDEP) issues aquatic pesticide permits for applications of pesticides to surface waters of the State.

Effective January 29, 2013, **NJDEP mandated a 2-year permit for aquatic pesticide applications** to a given site regardless of the size/scope of the site/project. This permit application fee is **non-refundable** and **non-transferable**. NJDEP regulations do not allow for a permit to "transfer" from one applicator business to another.

TIGRIS will apply for this 2-year permit on your behalf. The State of New Jersey charges \$150.00 for this 2-year application. TIGRIS charges a \$100.00 permit processing and record-keeping/reporting fee. The Borough of Mountain Lakes will require nine (9) new permits for the 2025/2026 seasons.

CERTIFICATION

TIGRIS Aquatic Services (98622A) is listed with the State regulating body as a registered applicator of aquatic herbicides and algicides and supervisory personnel hold current certification from the State.

INSURANCE

TIGRIS carries Workers Compensation, General Liability, Professional Liability, Property Damage and Environmental Liability Insurance which will remain in full effect throughout this program. A certificate of insurance will be forwarded upon request.



2025 CONTRACT PRICE

Lake Management Program: \$ 68,100.00

Pricing includes all necessary equipment, materials, labor and travel expenses to perform all surveys and water quality monitoring as outlined. The lake management program also includes all required herbicide and algaecide treatment to all nine Borough water bodies.

Optional Treatment Services:

Optional Treatment Services, if described below, are not included in the seasonal contract price. Each will require written authorization prior to service being performed and will be invoiced following completion of each service.

1. Crystal Lake Nutrient Inactivation (alum) Treatment (-3,000 gals) \$8,950.00
2. Wildwood Lake Nutrient Inactivation (alum) Treatment (-1,500 gals) \$5,750.00 (One alum treatment is included in Lake Management Contract price and Option 2 will be billed for any additional alum treatment to Wildwood Lake after first.)

Category HAB – General Harmful Algal Bloom Management Permit:

Initial Permit Filing Fee:	\$ 750.00
Supplemental HAB Form	\$ 350.00 per additional product per lake
Nutrient Inactivation Monitoring Program:	\$ 4,200.00 - All lakes except Mountain Lake
Nutrient Inactivation Monitoring Program:	\$ 7,000.00 - Mountain Lake

Pricing does not include any applicable sales taxes or permit fees

PERMIT APPLICATION / RECORD-KEEPING FEES

NJDEP Permit and application processing fees: **\$ 250.00/2 years*/ permit = \$2,250.00 total**
***non-refundable, non-transferable**

BILLING

The Borough of Mountain Lakes will be invoiced on a monthly basis from March through December, 2025 at **\$6,810.00** per month for the Lake Management Program.

Additional Management Services will be invoiced following completion of each service with Client authorization.

ACCEPTANCE

This Proposal may be made a contract by executing below. The permit fee will be invoiced upon receipt of the approved contract. **Remit Executed Contract: contracts@tigrisusa.com**

Accepted by _____ **Date** _____

Phone _____ **Contact email** _____

Billing contact _____ **Billing phone number** _____

Billing email address _____



**MEETING MINUTES OF THE COUNCIL OF THE BOROUGH OF MOUNTAIN LAKES
JANUARY 27, 2025
HELD AT BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES, NJ**

CALL TO ORDER AND OPEN PUBLIC MEETINGS ACT STATEMENT

This meeting is being held in compliance with Public Law 1975, Chapter 231, Sections 4 and 13, as notice of this meeting has been reported to The Citizen, the Morris County Daily Record, and The Star Ledger on January 9, 2025 and posted in the municipal building.

Mayor Sheikh called the meeting to order at 7:01p.m.

ROLL CALL ATTENDANCE

Roll Call

Cannon
Howley
Menard
Sheikh

Present

☒
☒
☒
☐

Absent

☐
☐
☐
☒

Present

☒
☒
☒

Absent

☐
☐
☐

Tsai
Muilenburg
Barnett

FLAG SALUTE

Mayor Barnett led the salute to the flag.

EXECUTIVE SESSION

There was no executive session.

COMMUNITY ANNOUNCEMENTS

Deputy Mayor Muilenburg announced that the Mountain Lakes Library will hold a Lunar New Year celebration event on February 2nd from 2-5 pm at Mountain Lakes High School.

SPECIAL PRESENTATIONS

Special Presentation - PFAS Remediation Wells #3 and #4 – Dewberry Engineers

Dewberry Engineer Peter Black provided an update on the proposed project plan to remediate PFOA / PFAS from Wells 3 and 4. In consultation with Borough Engineer Bill Ryden and considering Denville Township's zoning ordinances and the Rockaway River Country Club's requests, changes to the construction project were made, including the location of the treatment building. Mr. Black advised the following: access will be in the front of the building; a cost-benefit analysis of Granular Activated Carbon versus Ion Exchange was conducted and determined that Ion Exchange is more cost-effective for Mountain Lakes; after the construction is completed, the 10-year operating and maintenance cost is estimated to be approximately \$1,300,000; the Borough will fund the project via the I-Bank; approval of the New Jersey Department of Environmental Protection permit will take approximately five months to obtain; once the project is awarded through the public bidding process, it should take approximately 14 months to complete.

The Council asked questions of Mr. Black, and he answered them. Mr. Black agreed to determine the actual cost of the building based on the size of the finalized plans.

The Council advised that the Borough would work with Rockaway River Country Club to select the building's exterior color and finish.

Borough Attorney Oostdyk advised that the Borough is part of a class action lawsuit regarding PFAS. However, the outcome and settlement are unknown and will not be known in time to take into account for funding decisions.

PUBLIC COMMENT REGARDING PFAS REMEDIATION PRESENTATION

Mayor Barnett opened the meeting to the public.

Chris Richter, the past president of the Rockaway River Country Club and a current member of the Executive Committee, thanked the Council for moving the location of the building and requested that the Borough work with the Club to supplement the landscaping plan.



**MEETING MINUTES OF THE COUNCIL OF THE BOROUGH OF MOUNTAIN LAKES
JANUARY 27, 2025
HELD AT BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES, NJ**

Bob Platt – questioned if competitive bidding will result in a lower cost of the project and what the residue expense is.

Steve Castellucci - questioned if the Borough is evaluating the other Borough wells for PFAS.

Cynthia Korman - questioned if source point analysis was done.

Mayor Barnett and Mr. Black responded to the public's comment. Mr. Black advised the following: In his experience, public bidding results in higher project costs than the engineer's estimated cost; currently, the other Borough wells' PFAS levels are not in violation of federal or state regulations; and he was not aware of source point analysis being performed. Mr. Black provided Ms. Korman with an FAQ sheet about PFAS.

REPORTS OF BOROUGH ESTABLISHED BOARDS, COMMISSIONS AND COMMITTEES

There were no reports.

BOROUGH COUNCIL DISCUSSION ITEMS

There were no discussion items.

PUBLIC COMMENT

Mayor Barnett opened the meeting to the public.

There was no one from the public wishing to speak.

ATTORNEY'S REPORT

Mr. Oostdyk reported that the Borough received a letter from Attorney Peter J. Wolfson, who represents the owner of 49 Bloomfield Avenue, Block 118.04, Lot 1 (Vision Real Estate Partners), requesting that the property be included in the Borough's affordable housing compliance plan for the fourth round.

Mr. Oostdyk advised that the Borough Planner will determine how the proposed development at 49 Bloomfield Avenue will impact the Borough's affordable housing plan.

MANAGER'S REPORT

Borough Manager Stern provided his report (attached). The Council asked Mr. Stern questions, and he answered them.

RESOLUTIONS

R76-25, Adopting the Borough's Fair Share Affordable Housing Obligation for the Fourth Round

Council member	M	2nd	Yes	No	Abstain	Absent
Cannon	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Howley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Menard	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sheikh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tsai	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Muilenburg	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barnett	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ORDINANCES TO INTRODUCE

There were no ordinances to introduce.

ORDINANCES TO ADOPT

There were no ordinances to adopt.



**MEETING MINUTES OF THE COUNCIL OF THE BOROUGH OF MOUNTAIN LAKES
JANUARY 27, 2025
HELD AT BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES, NJ**

***CONSENT AGENDA ITEMS**

Matters listed as Consent Agenda Items are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

***RESOLUTIONS**

- a. *R71-25, Authorizing the Payment of Bills*
- b. *R72-25, Authorizing Membership in the Mountain Lakes Volunteer Fire Department*
- c. *R73-25, Accepting the Boulevard Path Project and Authorizing the Release of Performance Bond and Acceptance of Maintenance Bond*
- d. *R74-25, Authorizing the Execution of a Grant Agreement between the Borough of Mountain Lakes and Preserve New Jersey Historic Preservation Fund for a Previously Awarded Grant for the Mountain Lakes Historic District*
- e. *R75-25, Authorizing the Transfer of Appropriations*

***APPROVAL OF MINUTES**

1/13/25 (Regular)

1/22/25 (Regular)

***BOARD, COMMITTEE AND COMMISSION APPOINTMENTS**

***Approval of the Consent Agenda**

Council member	M	2nd	Yes	No	Abstain	Absent
Cannon	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Howley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Menard	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sheikh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Tsai	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Muilenburg	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barnett	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DEPARTMENT REPORTS SUBMITTED FOR FILING (reports are included only if checked)

- ☒ Construction Department
- ☒ Department of Public Works
- ☒ Fire Department
- ☒ Health Department
- ☒ Police Department
- ☒ Recreation Department
- ☒ Code Enforcement/Property maintenance report
- ☒ Tax Collector
- ☒ Zoning Board of Adjustment Annual Report

COUNCIL REPORTS

Environmental Commission - Councilmember Howley reported that the commission supports the Borough pursuing Highlands Council Conformance and that the commission discussed high school projects regarding Birchwood Lake.

Recreation Commission – Councilmember Tsai reported the following: the commission discussed succession plans for the tree used for the Borough Christmas tree lighting; new resident welcome kits have started to be distributed; and the 2024 recreation holiday contests were successful.



**MEETING MINUTES OF THE COUNCIL OF THE BOROUGH OF MOUNTAIN LAKES
JANUARY 27, 2025
HELD AT BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES, NJ**

Planning Board - Mayor Barnett reported the following: the board held their reorganization meeting; the board changed their meeting time from 7:30 pm to 7 pm; the board heard a soil moving permit for 26 Lake Drive; the board is requesting that the Borough revise its soil moving ordinance to allow either the planning or zoning board to review major permit applications. The Council supported the ordinance change, and Borough Manager Stern will determine if the ordinance amendment should be included in the overhaul of zoning ordinances.

PUBLIC COMMENT

Mayor Barnett opened the meeting to the public.

There was no one from the public wishing to speak.

NEXT STEPS AND PRIORITIES

Mayor Sheikh reviewed the following next steps and priorities:

Next Step	Completed by	Completion date
Determine if Soil Moving Ordinance Amendment Should Be Included in the Overhaul of Zoning Ordinances	Borough Manager	
Email Documents Regarding Overhaul of Zoning Ordinances to Councilmembers	Borough Clerk	

ADJOURNMENT at 8:08P.M.

Motion made by Councilmember Menard, second by Councilmember Cannon to adjourn the meeting at 8:08p.m., with all members in favor signifying by "Aye".

Respectfully Submitted,

Cara Fox, Borough Clerk



MEETING MINUTES OF THE COUNCIL OF THE BOROUGH OF MOUNTAIN LAKES
JANUARY 29, 2025
HELD AT BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES, NJ 07046

CALL TO ORDER AND OPEN PUBLIC MEETINGS ACT STATEMENT

This meeting is being held in compliance with Public Law 1975, Chapter 231, Sections 4 and 13, as notice of this meeting has been reported to The Citizen, the Morris County Daily Record, and The Star Ledger on January 4, 2025 and posted in the municipal building.

Mayor Sheikh called the meeting to order at 7p.m.

ROLL CALL ATTENDANCE

Roll Call	Present	Absent		Present	Absent
Cannon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tsai	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Howley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Muilenburg	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Menard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Barnett	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sheikh	<input type="checkbox"/>	<input checked="" type="checkbox"/>			

FLAG SALUTE

Mayor Barnett led the salute to the flag.

BUDGET DISCUSSION

The following items in the proposed 2025 operating budget were discussed with Borough Manager Mitchell Stern and the Borough's CFO, Monica Goscicki: Expenditure lines involving Library, Historic Preservation, Recreation, Police, Traffic & Safety, Dispatch, Municipal Court, Office of Emergency Management, Fire Department, Code Enforcement, Construction, Planning and Zoning. Also discussed were the capital budget proposals.

Recreation Director Laurie Stepper, Mountain Lakes Library Representatives Jennifer Lynch (Director), Ian Matty (Makerspace Director), Jonathan Holasek (President) and Mark Hoffmann (Treasurer) were present at the meeting and answered questions regarding their budget proposals.

PUBLIC COMMENT

Mayor Barnett opened the meeting to the public.

There was no one from the public wishing to speak.

ADJOURNMENT at 8:53P.M.

Motion made by Deputy Mayor Muilenburg, second by Councilmember Menard to adjourn the meeting at 8:53p.m., with all members in favor signifying by "Aye".

Respectfully Submitted,

Cara Fox, Borough Clerk