

**REGULAR MEETING
APRIL 21, 2026**

In compliance with Chapter 231, OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice has been given to all members of the Governing Body, the "Local Source" and the "Westfield Leader" the two newspapers designated to receive such notice. The notice is posted on the Borough Hall bulletin board.

Mayor Paul N. Mirabelli called the meeting to order at 7:33 P.M.

INVOCATION: Councilman Rinaldo
SALUTE TO THE FLAG
ROLL CALL

PRESENT: Mayor Mirabelli, Councilman Dierkes, Council President Matejek, Councilwoman Pacifico, Councilman Rinaldo, Councilwoman Wass, Administrator Mortimer and Attorney Post. Also present were DPW Director Matthew DeAnna, CFO Justyna Diaz, Senior Coordinator Kim Moriak and Chief Joseph Giannuzzi. Councilman Van Deusen was absent.

APPROVAL OF MINUTES:

Upon a motion by Councilwoman Pacifico and a second by Councilman Matejek, the minutes of the Regular & Executive Session Meetings held on March 17, 2026 were approved. Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

Upon a motion by Councilman Dierkes, and a second by Councilwoman Wass, the minutes of the Work & Executive Session Meetings held on April 7, 2026 were approved. Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

PLAQUE: Marilyn & David Hart

PROCLAMATION:

Arbor Day

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, on April 28, 2026 the Department of Public Works will observe Arbor Day by planting two trees; and

WHEREAS, one of the qualifications for a municipality to be eligible to be designated as a Tree City U.S.A. is by having an Arbor Day Observance and Arbor Day Proclamation.

NOW, THEREFORE, BE IT PROCLAIMED, that the Mayor and Council of the Borough of Mountainside hereby recognize and commend Mountainside Department of Public Works, for their observance of Arbor Day and for working toward making the Borough of Mountainside a more tree-lined municipality and a more attractive place in which to live and work.

RESOLUTIONS:

The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Wass.

RESOLUTION 53-2026
Governor’s Council on Substance Use Disorder (GCSUD)
Alliance to Prevent Substance Use Disorder

WHEREAS, the Governor’s Council on Substance Use Disorder (GCSUD) established the Municipal Alliances for the Prevention of Substance Use Disorder in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent substance use disorder in communities throughout New Jersey.

WHEREAS, The Mountainside Council of the Borough of Mountainside, County of Union, State of New Jersey recognizes that substance use disorder is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Mountainside Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such substance use disorder in our community; and

WHEREAS, the Mountainside Borough Council has applied for funding to the Governor’s Council on Substance Use Disorder through the County of Union.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Mountainside, County of Union, State of New Jersey hereby recognizes the following:

- 1. The Mountainside Borough Council does hereby authorize submission of a strategic plan for the Mountainside Municipal Alliance grant for fiscal year July 1, 2026 – June 30, 2027 in the amount of:

DEDR	\$ 8,453.00
Cash Match	\$ 2,113.25
In-Kind	\$ 6,339.75

- 2. The Mountainside Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

The following resolution was introduced by Councilman Rinaldo and seconded by Councilwoman Pacifico.

RESOLUTION 54-2026

BE IT RESOLVED by the Governing Body of the Borough of Mountainside that the Chief Finance Officer be and she is hereby authorized to purchase two gift checks to be presented to the Valedictorian and Salutatorian from Deerfield School Graduating Class of 2026 in the Borough of Mountainside.

BE IT FURTHER RESOLVED that the gift checks will be in the amount of \$300.00 for the Valedictorian and \$200.00 for the Salutatorian.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

The following resolution was introduced by Councilwoman Wass and seconded by Councilwoman Pacifico.

RESOLUTION 55-2026

BE IT RESOLVED that the Treasurer be authorized to issue the following refunds:

<u>Applicant</u>	<u>For</u>	<u>Amount</u>
Carlos Garay 825 Midwood Drive Rahway, NJ 07065	Softball	\$70.00
Ryan Busse 827 Quarry Lane Martinsville, NJ 08836	Softball	\$70.00
Janie Giacone 846 Nancy Way Westfield, NJ 07092	Play in Nature	\$210.00

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilwoman Wass.

RESOLUTION 56-2026

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that authorization is granted for the Finance Officer to issue checks in the amount of \$500 to the following community events:

- Memorial Day Parade
- PTO Fall Festival
- PTO Trunk or Treat
- Rescue Squad Spooky Trail

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

The following resolution was introduced by Councilman Dierkes and seconded by Councilwoman Wass.

RESOLUTION 57-2026

WHEREAS, Kiana Taveras has notified the Borough of Mountainside of her intention to resign from the Borough of Mountainside as the Deputy Clerk/Deputy Registrar/Planning Board Secretary effective April 3, 2026; and

WHEREAS, the Chief Finance Officer has certified that Kiana Taveras is entitled to payout pay as per the Borough of Mountainside Policy & Procedures manual, as follows:

	Time Remaining	Hourly Payout Rate	Payout Amount
Vacation Hours (pro-rated)	20.5	\$ 38.41	\$ 787.41
Compensatory Time Accrued (Unused)	1.0	\$ 38.41	\$ 38.41

TOTAL PAYOUT AMOUNT \$ 825.82

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside that the Finance Department is authorized to make payment as indicated above on a final calculation upon the last day.

BE IT FURTHER RESOLVED, that the CFO has certified that sufficient uncommitted funds are available in the 2026 Borough of Mountainside Budget.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

The following resolution was introduced by Councilman Matejek and seconded by Councilman Rinaldo.

**RESOLUTION 58-2026
 CONDUCTING ANNUAL BUDGET EXAMINATION**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C 5:30-7.2 through 7.5 the Borough of Mountainside has been declared eligible to participate in the program by the Division of Local Government Service, and the Chief Financial Officer has determined that the Borough meets the necessary conditions to participate in the program for the 2026 budget year;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that, in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officer's certification, the Governing Body has found the municipal budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. are fully met. (Complies with the "CAP" law.)

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate, and correctly stated
 - b. Items of appropriation are properly set forth
 - c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Director of the Division of Local Government Services.

CERTIFICATION OF APPROVED BUDGET

It is hereby certified that the Approved Budget complies with the requirements of law and approval is given pursuant to N.J.S.A. 40A:4-78(b) and NJAC 5:30-7.

It is further certified that the municipality has met the eligibility requirements of NJAC 5:30-7.4 and 7.5, and that I Chief Financial Officer of the Borough of Mountainside, have completed the local examination in compliance with NJAC 5:30-7.6.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

ORDINANCES: Second Reading (Public Hearing)

ORDINANCE 1348-2026

AN ORDINANCE TO APPROPRIATE THE SUM OF ONE HUNDRED FORTY THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS (\$140,875.00) FROM THE CAPITAL IMPROVEMENT FUND FOR IMPROVEMENTS TO BOROUGH OWNED PROPERTIES

WHEREAS, the Governing Body of the Borough of Mountainside is desirous to undertake improvements to Borough owned Buildings including but not limited to reroofing and repairs; and

WHEREAS, funds up to the amount of \$140,875.00 may be needed.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Mountainside that the sum of \$140,875.00 be and the same is hereby appropriated from the Capital Improvement Fund.

It was moved by Councilman Rinaldo and seconded by Councilman Dierkes that this ordinance be passed on first reading and advertised in full for a public hearing on May 19, 2026.

Margot Baruch, 1136 Saddle Brook Road, questioned what project was being funded. Mayor stated it was for the library roof repairs.

Hearing no one else wishing to speak, Councilman Matejek closed the meeting to the public.

It was moved by Councilman Rinaldo and seconded by Councilwoman Pacifico that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Ayes: Dierkes, Matejek, Rinaldo, Pacifico, Wass. Nays: 0

First Reading (Introduction)

ORDINANCE 1349-2026
CALENDAR YEAR 2026
ORDINANCE TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et.seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said final budget appropriations to 2.50% unless authorized by ordinance to increase it to 3.5% over the previous years final appropriations; and

WHEREAS, a municipality may, by ordinance, bank the difference between its final budget appropriations and the 3.5% increase authorized by this ordinance when said difference is not appropriated as part of the final budget; and

WHEREAS, the Borough Council of the Borough of Mountainside, County of Union, hereby determines that this difference in the amount of \$174,358.58 that is not appropriated as part of the final budget shall be retained as an exception to the final appropriations in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, that any amount authorized herein above 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.

It was moved by Councilman Matejek and seconded by Councilwoman Wass that this ordinance be passed on first reading and advertised in full for a public hearing on May 19, 2026.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0

The following resolution was introduced by Councilwoman Wass and seconded by Councilwoman Pacifico.

RESOLUTION 59-2026
MUNICIPAL BUDGET NOTICE

Municipal Budget of the Borough of Mountainside, County of Union for the Calendar Year 2026;

BE IT RESOLVED, that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2026; and

BE IT FURTHER RESOLVED, that said Budget Summaries be published on the borough website under public notices on April 24, 2026; and

The Governing Body of the Borough of Mountainside does hereby approve the following as the Budget for the year 2026.

Notice is hereby given that the Budget and Tax Resolution was approved by the Mayor and Council of the Borough of Mountainside, County of Union, on April 21, 2026. A hearing on the

Budget and Tax Resolution will be held on May 19, 2026 at 7:30 PM at which time and place objections to said Budget and Tax Resolution for the year 2026 may be presented by taxpayers or other interested persons.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilwoman Wass.

RESOLUTION 60-2026

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Roof Replacement & Repairs at Mountainside Public Library; and

WHEREAS, on March 3, 2026 the return date for the bids, five bids were received as follows:

Bidders:	Base Bid	Alt. #1	Alt.#2
Mak Group, LLC	\$627,758	\$55,200	\$15,000
NRM	\$878,000	(\$50,000)	\$12,600
Safeway Contracting	\$985,000	(\$130,000)	\$15,000
TNT Construction Group	\$1,182,000	(\$92,000)	\$5,000
VMG Group	\$976,000	(\$143,000)	\$6,500

WHEREAS, the Borough Engineer recommends awarding the Base Bid and Alternate #1;
and

WHEREAS, the lowest bidder is Mak Group, LLC, 82 Midland Ave, Saddle Brook, NJ and Architect Donald Fiore has recommended they be awarded the contract.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Roof Replacement & Repairs at Mountainside Public Library be awarded to Mak Group, LLC in the amount of \$682,958.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0.

First Reading (Introduction)

ORDINANCE 1350-2026

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY IN, BY AND FOR THE BOROUGH OF MOUNTAINSIDE, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,320,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS

BE IT ORDAINED by the Borough Council of the Borough of Mountainside, in the County of Union, State of New Jersey, as follows:

Section 1. The Borough of Mountainside, in the County of Union, State of New Jersey (the "Borough") is hereby authorized to make various public improvements and to acquire new additional or replacement equipment and machinery in, by and for said Borough, as more particularly described in Section 4 hereof. The cost of the improvements includes all work, materials and appurtenances necessary and suitable therefor.

Section 2. There is hereby appropriated to the payment of the cost of making the improvements described in Sections 1 and 4 hereof (hereinafter referred to as "purposes"), the respective amounts of money hereinafter stated as the appropriation for said respective purposes. Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that the making of such improvements is not a current expense of said Borough.

Section 4. The several purposes hereby authorized for the financing of which said obligations are to be issued are set forth in the following "Schedule of Improvements, Purposes and Amounts" which schedule also shows (1) the amount of the appropriation and the estimated cost of each such purpose, and (2) the amount of each sum which is to be provided by the down payment hereinafter appropriated to finance such purposes, and (3) the estimated maximum amount of bonds and notes to be issued for each such purpose, and (4) the period of usefulness of each such purpose, according to its reasonable life, computed from the date of said bonds:

SCHEDULE OF IMPROVEMENTS, PURPOSES AND AMOUNTS

A. Undertaking of the following infrastructure improvements: (i) bank stabilization at various locations, (ii) sanitary and storm sewer improvements at various locations and (iii) reconstruction or resurfacing of various roads, including drainage improvements and curb construction or reconstruction, where necessary, as set forth on a list prepared by the Borough Engineer on file or to be placed on file with the Borough Clerk, and hereby approved as if set forth herein in full. Depending upon the contract price and other exigent circumstances, and upon approval by the Borough Council, there may be additions to or deletions from the list referred to in clause (iii) of the preceding sentence. It is hereby determined and stated that said roads to be improved are or will be of at least "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").

Appropriation and Estimated Cost	\$1,028,000
Down Payment Appropriated	\$ 49,000
Bonds and Notes Authorized	\$ 979,000
Period of Usefulness	10 years

B. Undertaking of HVAC improvements at the Municipal Building. It is hereby determined and stated that said public building being improved is of at least "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law.

Appropriation and Estimated Cost	\$ 60,000
Down Payment Appropriated	\$ 2,860
Bonds and Notes Authorized	\$ 57,140
Period of Usefulness	15 years

C. Undertaking of security improvements at various Borough facilities.

Appropriation and Estimated Cost	\$ 62,000
Down Payment Appropriated	\$ 3,000
Bonds and Notes Authorized	\$ 59,000
Period of Usefulness	10 years

D. Acquisition of new additional or replacement equipment and machinery consisting of self-contained breathing apparatus equipment for the use of the Fire Department.

Appropriation and Estimated Cost	\$ 170,000
Down Payment Appropriated	\$ 11,140
Bonds and Notes Authorized	\$ 158,860
Period of Usefulness	10 years

Aggregate Appropriation and Estimated Cost	\$1,320,000
Aggregate Down Payment Appropriated	\$ 66,000
Aggregate Amount of Bonds and Notes Authorized	\$1,254,000

Section 5. The cost of such purposes, as hereinbefore stated, includes the aggregate amount of \$126,000 which is estimated to be necessary to finance the cost of such purposes, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 6. It is hereby determined and stated that moneys exceeding \$66,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Borough, are now available to finance said purposes. The sum of \$66,000 is hereby appropriated from such moneys to the payment of the cost of said purposes.

Section 7. To finance said purposes, bonds of said Borough of an aggregate principal amount not exceeding \$1,254,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 8. To finance said purposes, bond anticipation notes of said Borough of an aggregate principal amount not exceeding \$1,254,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 9. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 10. It is hereby determined and declared that the average period of usefulness of said purposes, according to their reasonable lives, taking into consideration the respective amounts of bonds or notes authorized for said purposes, is a period of 10.22 years computed from the date of said bonds.

Section 11. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of said Borough, and that such statement so filed shows that the gross debt of said Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$1,254,000 and that the

issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 12. Any funds received from private parties, the County of Union, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its

agencies in aid of such purposes, shall be applied to the payment of the cost of such purposes, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purposes shall be reduced accordingly.

Section 13. The Borough intends to issue the bonds or notes to finance the cost of the improvements described in Sections 1 and 4 of this bond ordinance. If the Borough incurs such costs prior to the issuance of the bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 14. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 15. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 16. This ordinance shall take effect twenty days after the first publication thereof after final passage.

It was moved by Councilman Dierkes and seconded by Councilman Matejek that this ordinance be passed on first reading and advertised in full for a public hearing on May 19, 2026.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0

First Reading (Introduction)

ORDINANCE 1351-2026

AN ORDINANCE TO APPROPRIATE THE SUM OF FIFTY-ONE THOUSAND DOLLARS (\$51,000.00) FROM THE CAPITAL IMPROVEMENT FUND FOR THE ACQUISITION OF VARIOUS EQUIPMENT FOR THE DEPARTMENT OF PUBLIC WORKS

WHEREAS, the Governing Body of the Borough of Mountainside is desirous of acquiring various equipment for the Department of Public Works; and

WHEREAS, funds up to the amount of \$51,000.00 may be needed.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Mountainside that the sum of \$51,000.00 be and the same is hereby appropriated from the Capital Improvement Fund.

It was moved by Councilman Matejek and seconded by Councilwoman Pacifico that this ordinance be passed on first reading and advertised in full for a public hearing on May 19, 2026.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0

ORDINANCE 1352-2026

AN ORDINANCE AMENDING ORDINANCE 1219-2014 (LAND DEVELOPMENT) OF THE CODE OF THE BOROUGH OF MOUNTAINSIDE, COUNTY OF UNION, AND STATE OF NEW JERSEY TO ESTABLISH AN INCLUSIONARY ZONE DISTRICT ENTITLED L-I/AH2, PROVIDING AFFORDABLE HOUSING UNITS TO BE DEVELOPED SUBJECT TO CERTAIN CONDITIONS AND REQUIREMENTS

WHEREAS, the Borough of Mountainside will satisfy its affordable housing obligation in accordance with Mount Laurel IV regulations and the most recently adopted Housing Element & Fair Share Plan; and

WHEREAS, prior to the most recent Borough of Mountainside Housing Element & Fair Share Plan, in 2023 the State of New Jersey provided a framework for municipalities to achieve constitutional compliance with regard to creating a realistic opportunity for producing a fair share of affordable housing for the Fourth Round; and

WHEREAS, N.J.S.A. 4:55D-62 provides the governing body with the power to create zoning districts and related requirements to effectuate the Borough Master Plan and Housing Element & Fair Share Plan; and

WHEREAS, the Borough Council recognizes the importance of providing a realistic opportunity to produce its fair share obligation for the Fourth Round and to allow for the opportunity of housing choices within the Borough; and

WHEREAS, the most recently adopted Housing Element & Fair Share Plan; includes overlay inclusionary developments to provide the Township with low- and moderate-income affordable units.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Mountainside, County of Union, State of New Jersey, that a Multi Family Inclusionary Zone (L-I/AH2) is hereby established and applied to certain lands along State Route 22 as follows:

Section 1. Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Borough of Mountainside 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 Mountainside shall address its fair share for low- and moderate-income housing as determined by the Department of Community Affairs (the Department) and documented in the Housing Element.
- (c) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- (d) The Borough of Mountainside shall file monitoring reports with the Department in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by the Department in accordance with N.J.A.C. 5:96 shall be available to the public at the Borough of Mountainside Municipal Building, Municipal Clerk's Office, 1385 US Highway 22 East, Mountainside, NJ 07092, or from the Department at 101 South Broad Street, Trenton, New Jersey and on the Department's website, www.nj.gov/dca.

Section 2. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion

of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means 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” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; 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” means a housing development all or a portion of which consists of restricted units.

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

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

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

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

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

“The Department” means 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” means the State of New Jersey Department of Community Affairs.

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

“Developer” means any person, partnership, association, company, or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including

the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of

any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Inclusionary development” means 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 non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means 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” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means 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” means 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” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department’s adopted Regional Income Limits published annually by the Department.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

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

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

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

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

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

Section 3. Affordable Housing Programs

The Borough of Mountainside has determined that it will use the following mechanisms to satisfy its affordable housing obligations: rehabilitation and new construction.

(a) A Rehabilitation program.

1. The Borough of Mountainside’s rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
2. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
3. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
4. The Borough of Mountainside shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
5. The Borough of Mountainside shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Borough of Mountainside.
6. The Borough of Mountainside shall designate, subject to the approval of the Department, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Department. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
7. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.

Section 4. Inclusionary Zoning

(a) **Presumptive densities and set-asides.** To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning permits minimum presumptive densities and presumptive maximum affordable housing set-asides as follows [*Include only those Planning Areas applicable to the municipality*]:

1. For Sale Developments

i. Inclusionary zoning for the L-I/AH2 zone in Borough of Mountainside permits residential development at a presumptive minimum gross density of twelve (12) units per acre and a presumptive maximum affordable housing set-aside of twenty (20) percent of the total number of units in the development;

2. Rental Developments

i. Inclusionary zoning permits a presumptive minimum density of 12 units per acre and a presumptive maximum affordable housing set-aside of 20 percent of the total number of units in the development and the zoning provides for at least 10 percent of the affordable units to be affordable to households earning 30 percent or less of the area median income for the Housing Region.

(b) **Phasing.** In inclusionary developments the following schedule shall be followed:

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

(c) **Design.** In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

(d) **Payments-in-lieu and off-site construction.** The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:97-6.4.

(e) **Utilities.** Affordable units shall utilize the same type of heating source as market units within the affordable development.

1. Affordable Housing (AH) Districts

i. **Purpose.** The AH districts are established to provide the opportunity to provide affordable housing in accord with NJ Fair Housing Law. The standards and requirements of the districts are designed to recognize the existing developed neighborhood character and to further the goals of the Borough Master Plan as amended. All districts established by Ordinance 1219-1014 remain and the new L-I/AH2 zone is shown on Exhibit 1.

ii. The following sites and areas shall provide affordable housing units as follows:

- A. Block 3A, Lots 17 and 18 6 units
- B. Block 14 Lot 146 units
- C. Block 15I, Lot 48B 4 units
- D. LI/OB, OB/AH and B/AH 20% of total approved units
overlay zone
- E. LI/AH2 overlay zone 20% of total approved units

iii. The R-2/AH district permits senior citizen development only. The O-B/AH, B/AH, and L-I/AH2 district are not age restricted.

iv. The L-I/AH, OB/AH, AND L-I/AH2 districts are overlay zones. These properties may be maintained and/or developed in accord with L-I and OB district restrictions and standards

as set forth in Section 1013 and 1014 respectively or in the alternative developed for affordable units as set forth in this section.

- v. Permitted Uses. No building, structure or premises shall be used and no building or structure shall be erected or structurally altered except for the following uses:
 - A. Townhouses.
 - B. Apartments.
 - C. In the B/AH zone non-residential uses limited to and subject to all restrictions and standards of the B zone and as set forth in Section 1100.
 - D. In the L-I/AH and OB/AH non-residential uses limited to and subject to all restrictions and standards of the L-I and OB zones and as set forth in Section 1013 and 1014 respectively.
- vi. Area, yard and building requirements for the L-I/AH2 zone are as follows:
 - A. Minimum area – 200,000 sf for B24.10, L1, 2, 3, and 5
Minimum area – 20,000 sf for B14, L1.01
 - B. Maximum density
 - 1. R-2/AH and B/AH – 6 dwelling units/acre
 - 2. O-B/AH and L-I/AH – 6 dwellings/acre subject to critical area restriction (Section 1003Z)
 - 3. L-I/AH2 – 12 dwellings/acre subject to critical area restriction (Section 1003Z)
 - C. Bulk and yard requirements.
 - 1. Maximum percent lot coverage by residential buildings shall be a maximum of twenty-five (25%) percent for the R-2/AH, O-B/AH and L-I/AH zones and forty (40%) percent for the L-I/AH2 zone. The maximum percent lot coverage by residential buildings shall be forty (40%) percent for the B/AH zone. This restriction excludes common facilities such as clubhouses, gazebos, maintenance sheds, shelters and similar structures.
 - 2. Maximum percent total impervious coverage is sixty-five (65%) percent for R-2/AH, O-B/AH and L-I/AH zones, eighty (80%) percent for the B/AH zone, and seventy-five (75%) percent for the L-I/AH2 zone.
 - 3. Building height. No buildings shall exceed a height of 2½ stories or thirty-six (36) feet except 3 story or 38 feet may be permitted in the L-I/AH2 zone
 - 4. Minimum setback for front yard is fifty (50) feet for R-2/AH, O-B/AH, L-I/AH, and L-I/AH2 zones, five (5) feet for non-residential and mixed-use buildings and thirty (30) feet for residential buildings in the B/AH zone. Minimum setback for side and rear yard is twenty-five (25) feet.
 - 5. Off-street parking. Off-street parking spaces shall be provided in accordance with applicable Residential Site Improvement Standards (RSIS) N.J.S.A. 5:21-4.14 (parking).
 - D. In the L-I/AH and L-I/AH2 zones non-residential uses are limited to and subject to all restrictions and standards of the L-I zone and as set forth in Section 1013.
 - E. No parking shall be permitted in the required side and rear yard setback area.
 - F. Lighting standards for common areas shall conform to standards as set forth in this chapter.
 - G. Roads. All interior roads shall be private streets and conform to applicable RSIS standards.
 - H. Signs. Project ID sign shall be permitted at maximum of 50 sf in size.

- vii. Establishment of owner association. Where units are sold the developer shall provide for an organization for the ownership and maintenance of any common facilities and recreation facilities, landscaped areas, internal roadways, and other amenities in the development for the benefit of owners and residents of the development. The documentation establishing such owner's association shall be subject to the approval of the Borough Attorney.
- viii. Recreation facilities.
 - A. The areas within the common open space shall provide recreation facilities appropriate for the size of the development.
 - B. The common open space and recreation facilities located on the development shall be available on an equal basis to all residents of the development.
 - C. The recreation facilities may include a central recreation complex, swimming pool, tennis courts, picnic areas, and similar facilities.
 - D. The recreation facilities shall include meandering open space and trail system linking residential dwellings and other structures located within and without the development.
- ix. Sidewalk and walkways.
 - A. A system of contiguous walkways shall be provided throughout the development, including its common areas, for safe pedestrian movement.
 - B. walkways within common areas shall connect to sidewalks along streets.
- x. Buffers.
 - A. Buffers must be a minimum of twenty-five (25) feet from all property lines of the tract where abutting existing single-family homes. These shall either be preserved with natural vegetation or landscaped to provide a visual buffer from adjacent properties.
 - B. Buffering shall provide a year-round visual screen to minimize adverse impacts on the site from adjacent areas. Buffering shall also ensure privacy for dwelling units and minimize adverse impacts from traffic, noise, and light.
 - C. Buffering shall consist of a berm and either fencing or evergreens or combinations of materials to achieve the stated buffering objectives.
- xi. Low- and moderate-income housing requirement. Required percentage of affordable units to be constructed on-site. The developer shall designate and set aside twenty (20%) percent of the total dwelling units as affordable to low- and moderate-income households. Any fractional calculations shall be rounded up.
- xii. Permitted Accessory Building and Uses. Accessory uses customary and incidental to the principal use, including but not limited to those specified. The term accessory use shall not include a business nor any building or unit not located on the same lot with the principal building to which it is accessory.
 - A. Private garages and carports.
 - B. Private swimming pools and tennis courts provided such uses shall comply with the minimum required yard depth requirement for ht principal building.
 - C. Outdoor barbecue structures.
 - D. Storage buildings.
- xiii. Conditional uses. None.

Section 5. 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) 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 percent of the restricted units within each bedroom distribution shall be low-income units.
3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
 - iv. The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
4. 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.

(b) 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 and N.J.A.C. 5:97-3.14.
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:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;
 - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
 - v. 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
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Borough of Mountainside has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - A. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - B. To this end, the builder of restricted units shall deposit funds within the Borough of Mountainside's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

- C. The funds deposited under paragraph B. above shall be used by the Borough of Mountainside for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- D. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Mountainside.
- E. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Mountainside's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- F. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

(c) 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 in the Department, utilizing the regional income limits established by the Department.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 80 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent 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.
 - i. At least 10 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.

**NOTE: N.J.S.A. 52:27D-329.1 (P.L. 2008, C. 46) includes the requirement that all municipal fair share plans provide for the reservation of at least 13% of the affordable units for very low-income households, i.e. households earning 30% or less of the median income. The new statute states that the requirement is not project-specific. Each municipality's version of this ordinance must reflect the determinations made in the Fair Share Plan as to the percentage of units necessary for very low income units in rental projects. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be included in the zoning section of this ordinance or specified in a developer's or redeveloper's agreement.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent 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.
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:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one- and one-half person household;

- iii. A two-bedroom unit shall be affordable to a three-person household;
 - iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one- and one-half person household; and
 - iii. 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 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, 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 percent 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 nine percent in any one year. Rents 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. **Utilities.** 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.

The following general guidelines apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

Section 6. Affirmative Marketing Requirements

- (a) The Borough of Mountainside shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Department, 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 the Department 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 the Department Housing Region 2 comprised of Union, Essex, Morris, and Warren Counties.
- (d) The Administrative Agent designated by the Borough of Mountainside 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 the Borough of Mountainside.

Section 7. 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.

Section 8. 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 Ordinance until the Borough of Mountainside 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 non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted 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 Ordinance 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.

Section 9. 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.

Section 10. Buyer Income Eligibility

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

Section 11. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

Section 12. 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 Ordinance until the Borough of Mountainside 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 Union. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or

3. The entry and enforcement of any judgment of foreclosure.

Section 13. 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.
- (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 five percent 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 Ordinance.

Section 14. 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 percent of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted 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 percent (40 percent 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 percent (40 percent 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 percent (40 percent 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 (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 15. Administration

- (a) The position of Municipal Housing Liaison (MHL) for the Borough of Mountainside is established by this ordinance. The Mayor shall make the actual appointment of the MHL by means of a resolution.
 1. The MHL must be either a full-time or part-time employee of Borough of Mountainside.
 2. The person appointed as the MHL must be reported to the Department.

3. The MHL must meet all the Department requirements for qualifications, including initial and periodic training.
 **NOTE: if the MHL position is one that will always be included in the job description for a particular position in the local staff, e.g. Township Clerk, that position can be named in this ordinance.
4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Mountainside, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Borough of Mountainside's Fair Share Plan;
 - v. Compiling, verifying, and submitting annual reports as required by the Department;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Department.
- (b) The Borough of Mountainside shall designate by resolution of the Governing Body, subject to the approval of the Department, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- (c) 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 Department. 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).
- (d) 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 Department;
 2. Affirmative Marketing;
 2. Household Certification;
 3. Affordability Controls;
 4. Records retention;
 5. Resale and re-rental;
 6. Processing requests from unit owners; and
 7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

Section 16. 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:
 - i. A fine of not more than \$1000 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;
 - ii. 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 Borough of Mountainside Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. 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.

Section 17. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Commissioner of the Department.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.

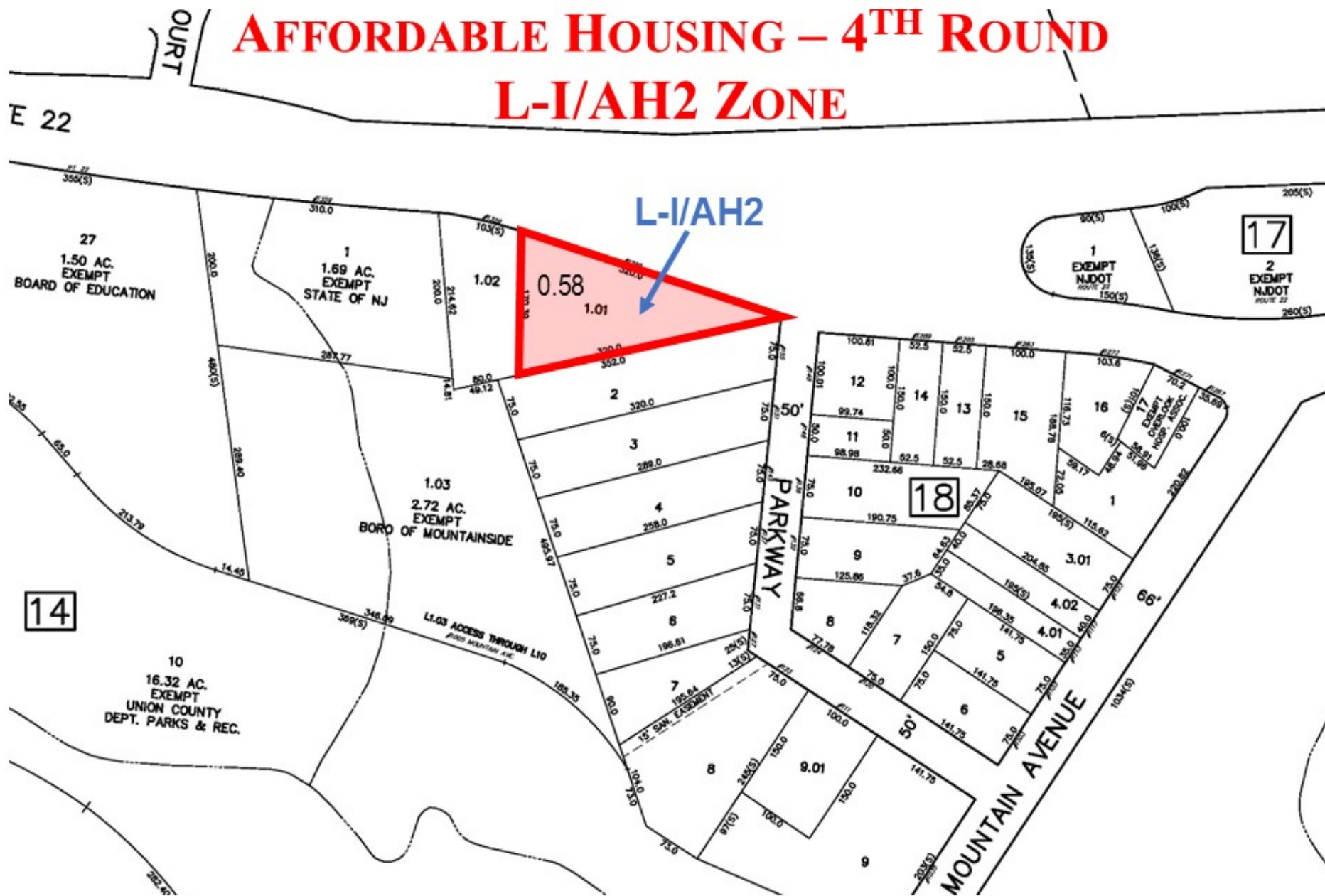
Section 18.

This ordinance shall take effect twenty days after the first publication hereof after final passage.

It was moved by Councilwoman Pacifico and seconded by Councilman Matejek that this ordinance be passed on first reading and advertised in full for a public hearing on May 19, 2026.

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0

PROPOSED AFFORDABLE HOUSING – 4TH ROUND L-I/AH2 ZONE



BILLS & CLAIMS:

The following resolution was introduced by Councilman Dierkes and seconded by Councilman Matejek.

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following bills of the persons named and for the amounts stated below, having been duly audited and found to be correct this 21st day of April 2026, the same be paid after Council's review, if and when funds are available and that the Mayor, Council President, Administrator and Treasurer are hereby authorized and directed to sign and deliver warrants for same in the amount of \$440,263.46 (Copy of bill list attached).

Roll Call: Ayes: Dierkes, Matejek, Pacifico, Rinaldo, Wass. Nays: 0

COUNCIL COMMENTS:

Councilwoman Pacifico announced upcoming events and pool membership registration.

Councilman Matejek mentioned distracted driver awareness month and upcoming events. He also reminded residents to follow the new e-bike regulations. Borough Hall implemented a costs savings LED lighting initiative. Residents will soon be able to use the Westfield Conservation Center.

Councilwoman Wass spoke about the Earth Day Environmental highlights and provided a Rescue Squad update.

Mayor Mirabelli announced the launch of the Borough's new website.

AUDIENCE PARTICIPATION:

Jack Leppler, 1302 Cedar Avenue, expressed concerns with vandalism and youth gatherings at the Deerfield pickleball courts. The Mayor would like to see more police presence and surveillance equipment installed.

Upon a motion by Councilwoman Wass and a second by Councilwoman Pacifico, the meeting was unanimously adjourned at 8:17 PM.

Martha Lopez, RMC
Borough Clerk