

**WORKSHOP SESSION  
MINUTES**

The Work Session Meeting of the Mayor and Council was held in the Council Chambers and called to order at 8:06pm. Adequate notification was published in the official newspaper of the Borough of Montvale. Roll call was taken.

**OPEN PUBLIC MEETING STATEMENT**

Adequate notice of this meeting was provided to The Bergen Record and/or The Ridgewood News, informing the public of the time and place according to the provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

Also Present: Mayor Mike Ghassali; Borough Attorney, Joe Voytus; Borough Engineer, Andrew Hipolit; Administrator/Municipal Clerk, Maureen Iarossi-Alwan; and Deputy Municipal Clerk, Fran Scordo

**ROLL CALL:**

Councilmember Arendacs  
Councilmember Curry  
Councilmember Gloeggler

Councilmember Koelling  
Councilmember Lane  
Councilmember Weaver

**Office of Emergency Management , Frank DiPalma / Donation Recognition**

Montvale has an amateur radio repeater, it can be used by anyone who is licensed by the FCC; Mr. DiPalma encouraged and promotes licensed people to use, it's a great way for communication; Mr. Ulrich Rohde donated a new radio to OEM and wanted to recognize him for the donation.

**Bob Hanrahan – Environnemental Commission**

Center of town refurbishment; late 2016 the Mayor asked the EC to make some recommendations; hired Mr. Koenig to evaluate the area and made recommendations for an estimate of approximately \$100,000; Mr. Hanrahan asked the council, what do you want it to look like and how is it going to be maintained?; New plans will be given to councilmembers to review.

**Darlene Green, Borough Planner**

Ms. Green gave a brief explanation of each ordinance. As a result of the settlement agreement, some existing ordinances needed to be amended to comply with the agreement, such as development fees, creating new overlay zones which will cover the "Annie Sez" property as well as the "east and west" side of the train tracks and amending set-aside requirements.

**ORDINANCES:**

**PUBLIC HEARING OF ORDINANCE NO. 2018-1449** AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 128 OF THE CODE OF THE BOROUGH OF MONTVALE TO ESTABLISH A BOROUGH-WIDE SET-ASIDE REQUIREMENT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

**WHEREAS**, the Borough Council of the Borough of Montvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

**WHEREAS**, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201)* ("*Mt. Laurel IV*") seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough's obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

**WHEREAS**, after a Fairness Hearing held on January 25, 2018, by Order dated February 12, 2018, Hon. Menelaos W. Toskos, J.S.C. approved a series of settlement agreements between the Borough of Montvale, Fair Share Housing Center, and three developer-intervenors intended to establish the Borough's affordable housing obligations; and

**WHEREAS**, pursuant to the requirements of the February 12, 2018 Order, the Borough of Montvale intends to supplement its Zoning Ordinance to include provisions addressing Montvale's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Montvale Planning Board has adopted a Housing Element and Fair Share Plan dated April 17, 2018 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, this Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are required when certain types of applications are approved; and

**WHEREAS**, this Ordinance is intended to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body.

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Borough of Montvale, as follows:

**Section 1.** Chapter 128 of the Code of the Borough of Montvale, Article IX, entitled "Miscellaneous District Regulations," Section 9.2, is hereby amended and supplemented by renaming the section "Borough-Wide Set-Aside Requirements," and amending and supplementing said section to read as follows:

**§128-9.2 Borough-Wide Set-Aside Requirements.**

- A. Any property in the Borough of Montvale that receives a zoning change, density variance, use variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, which multi-family residential development will yield five (5) or more new dwelling units, shall provide a minimum affordable housing set-aside of:
  1. fifteen (15%) percent if the affordable units will be for rent; or
  2. twenty (20%) percent set-aside if the affordable units will be for sale.
- B. This requirement shall not apply to residential development on sites that are zoned for inclusionary residential development as part of the Borough's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning.
- C. This requirement does not, and shall not be construed to, grant any property owner or developer the right to any rezoning, variance or other relief, nor does this requirement establish any obligation on the part of the Borough of Montvale to grant any such rezoning, variance or other relief.
- D. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement.

- E. All affordable units created pursuant to this Section shall be governed by the provisions of Chapter 2B, "Affordable Housing Regulations"

**Section 2.** Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 3.** Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**Section 4.** Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 5.** Effective Date.

This ordinance shall become effective upon adoption and publication as required by law.

Ordinance No. **2018-1449** was introduced for second reading by Councilmember Weaver; seconded by Councilmember Lane; Clerk read by title only;

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Koelling - all ayes

**NO PUBLIC COMMENT**

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry

Motion to adopt on Second and Final Reading in Bergen Record by Councilmember Lane; seconded by Councilmember Curry; Clerk read by title only; a roll call vote was taken --- Councilmember Arendacs and Weaver voting No and Councilmembers Curry, Gloeggler, Koelling and Lane voting Yes

**PUBLIC HEARING ORDINANCE NO. 2018-1450** AN ORDINANCE RENAMING CHAPTER 2B OF THE CODE OF THE BOROUGH OF MONTVALE, "AFFORDABLE HOUSING REGULATIONS," AND REPLACING THE ENTIRE CONTENTS THEREOF TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH'S AFFORDABLE HOUSING OBLIGATIONS

**WHEREAS**, the Borough of Montvale has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

**WHEREAS**, the Borough Council of the Borough of Montvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

**WHEREAS**, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mt. Laurel IV") seeking approval of a Housing Element and Fair Share Plan that satisfies the Borough's obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

**WHEREAS**, after a Fairness Hearing held on January 25, 2018, by Order dated February 12, 2018, Hon. Menelaos W. Toskos, J.S.C. approved a series of settlement agreements between the Borough of Montvale, Fair Share Housing Center and three developer-intervenors, which were intended to establish the Borough's affordable housing obligations; and

**WHEREAS**, the Montvale Planning Board has adopted a Housing Element and Fair Share Plan dated April 17, 2018 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and **WHEREAS**, the Borough is desirous of amending and supplementing the Borough Code to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body, and include provisions addressing Montvale's constitutional obligation to provide for its fair share of low and moderate income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and **WHEREAS**, this Ordinance is intended to provide assurances 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 those units.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey, as follows:

**Section 1.** Montvale Borough Code Chapter 2B, is hereby renamed "Affordable Housing Regulations" and replaced in its entirety, as follows:

## **CHAPTER 2B**

### **AFFORDABLE HOUSING REGULATIONS**

#### **Article I**

#### **Affordable Housing Requirements**

<b>§2B-1</b>	<b>Purpose.</b>
<b>§2B-2</b>	<b>Monitoring requirements.</b>
<b>§2B-3</b>	<b>Definitions.</b>
<b>§2B-4</b>	<b>Applicability.</b>
<b>§2B-5</b>	<b>Rehabilitation Program.</b>
<b>§2B-6</b>	<b>Alternative living arrangements.</b>
<b>§2B-7</b>	<b>Inclusionary zoning.</b>
<b>§2B-8</b>	<b>Phasing schedule for inclusionary zoning.</b>
<b>§2B-9</b>	<b>Fractional units.</b>
<b>§2B-10</b>	<b>New construction.</b>
<b>§2B-11</b>	<b>Utilities.</b>
<b>§2B-12</b>	<b>Occupancy standards.</b>
<b>§2B-13</b>	<b>Control periods for restricted ownership units and enforcement measures.</b>
<b>§2B-14</b>	<b>Price restrictions for restricted ownership units, homeowner association fees and resale prices.</b>
<b>§2B-15</b>	<b>Buyer income eligibility.</b>
<b>§2B-16</b>	<b>Limitations on indebtedness secured by ownership unit; subordination.</b>
<b>§2B-17</b>	<b>Capital improvements to ownership units.</b>
<b>§2B-18</b>	<b>Control periods for restricted units.</b>
<b>§2B-19</b>	<b>Rent Restrictions for Rental Units; Leases</b>
<b>§2B-20</b>	<b>Tenant income eligibility.</b>

#### **Article II**

#### **Municipal Housing Liaison**

<b>§2B-21</b>	<b>Municipal Housing Liaison</b>
---------------	----------------------------------

**Article III  
Administrative Agent**

**§2B-22        Administrative Agent.**

**Article IV  
Affirmative Marketing Requirements**

**§2B-23        Affirmative marketing requirements.**

**Article V  
Enforcement**

**§2B-24        Enforcement of affordable housing regulations.**

**§2B-25        Appeals.**

**Article I  
Affordable Housing Requirements**

**§2B-1        Purpose.**

- A.    The purpose of this Chapter is to provide for and regulate affordable housing in the Borough of Montvale. 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 individuals and households shall occupy these units.
- B.    The Borough of Montvale 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 Housing Element and Fair Share Plan has been endorsed by the Borough Council. The Fair Share Plan describes the ways the Borough of Montvale shall address its fair share for low- and moderate-income housing as determined by the New Jersey Superior Court and documented in the Housing Element.
- C.    This Ordinance implements and incorporates the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as it may be amended and supplemented.

**§2B-2        Monitoring requirements.**

- A.    On the first anniversary of the entry of the Order granting Montvale a Final Judgment of Compliance and Repose in IMO Application of the Borough of Montvale, Docket No.: BER-L-6141-15, and every anniversary thereafter through the end of 2025, the Borough shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH), Local Government Services (LGS) or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the DCA, COAH or LGS.
- B.    On the first anniversary of the entry of the Order granting Montvale a Final Judgment of Compliance and Repose in IMO Application of the Borough of Montvale, Docket No.: BER-L-6141-15, and every anniversary thereafter through the end of 2025, the Borough shall provide annual reporting of the status of all affordable housing activity within the Borough through posting on the municipal website, with copies provided to FSHC, using forms previously developed for this purpose by COAH or any other forms

endorsed by the Court-appointed Special Master and FSHC. In addition to the foregoing, the Borough may also post such activity on the CTM system and/or file a copy of its report with COAH or its successor agency at the State level.

- C. For the midpoint realistic opportunity review, due on July 6, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough shall post on its municipal website, with copies provided to FSHC, a status report as to its implementation of its 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 Borough, with copies provided to FSHC, 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.
- D. For the review of very-low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of the entry of the Order granting Montvale a Final Judgment of Compliance and Repose in IMO Application of the Borough of Montvale, Docket No.: BER-L-6141-15, and every third year thereafter, the Borough will post on its municipal website, with copies provided to FSHC, a status report as to its satisfaction of its very-low income requirements, including the family very-low income requirements referenced in the Settlement Agreement. Such posting shall invite any interested party to submit comments to the Borough, with copies provided to FSHC, on the issue of whether the Borough has complied with its very-low income housing obligation under the terms of the Settlement Agreement.

### **§2B-3 Definitions.**

The following terms when used in this Chapter shall have the meanings given herein:

#### **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 designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

#### **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 new restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE**

A sales price or rent level that is within the means of a low or moderate income household as defined within N.J.A.C. 5:93-7.4, and, 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 it 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 it may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT**

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable housing 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 and approved for crediting by the Court and/or funded through an affordable housing trust fund.

**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.).

**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: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80% of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**ALTERNATIVE LIVING ARRANGEMENTS**

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative 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 State of 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 that is 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, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

**COURT**

The Superior Court of New Jersey, Law Division, Bergen County.

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

A housing unit with health and safety code violations that requires 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 included in a proposed development including the holder of an option to contract to 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 limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or 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 and 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 housing region, as adopted annually by COAH or a successor entity approved by the Court.

**MODERATE-INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

**MODERATE-INCOME UNIT**

A restricted unit that is affordable to a moderate-income household.

**MULTIFAMILY UNIT**

A structure containing five or more dwelling units.

**NON-EXEMPT 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 duly adopted Regional Income Limits published annually by COAH or a successor entity.

**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 an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

**UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

**VERY-LOW INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

**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 purposes of a rehabilitation program.

**§2B-4            Applicability.**

- A.     The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Montvale pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- B.     Moreover, this Ordinance shall apply to all developments that contain low and moderate income housing units, including any currently anticipated future developments that will provide low- and moderate-income housing units.

**§2B-5            Rehabilitation Program.**

- A.     Montvale'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.
- B.     Both owner-occupied and renter-occupied units shall be eligible for rehabilitation funds.
- C.     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.
- D.     The Borough of Montvale shall dedicate a maximum of \$20,000 for each unit to be rehabilitated through this program.
- E.     The Borough of Montvale shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Borough.
- F.     The Borough of Montvale shall designate, subject to the approval of the Court, 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 Court. 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).

- G. 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:
1. 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.
  2. 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.
  3. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
  4. 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.

**§2B-6 Alternative living arrangements.**

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH or the Court.
  2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by COAH or the Court.
1. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§2B-7 Inclusionary zoning.**

To implement the fair share plan in a manner consistent with the terms of the Settlement Agreement executed on November 14, 2017, ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall be permitted on the following properties consistent with the provisions of the Borough of Montvale's Housing Plan Element and Fair Share Plan, and the terms of the settlement agreement:

- A. For-Sale Developments. Inclusionary zoning in Planning Area 1 permits residential development at a presumptive minimum gross density of eight units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development. The Borough's affordable housing zones, including those adopted as a result of settlement agreements with prospective developers, are set forth in Chapter 128, "Zoning."
- B. Rental Developments. 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 COAH region. The Borough's affordable housing zones, including those adopted as a result of settlement agreements with prospective developers, are set forth in Chapter 128, "Zoning."

**§2B-8 Phasing schedule for inclusionary zoning.**

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

**§2B-9 Fractional units.**

Inclusionary developments that result in an affordable housing obligation that is fractional shall round up and provide the additional affordable unit.

**§2B-10 New construction.**

- 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. At least 13% of all restricted rental units shall be very-low income units (affordable to a household earning 30% or less of median income). The very-low income units shall be counted as part of the required number of low income units within the development.
2. At least 25% of the obligation shall be met through rental units, including at least half in rental units available to families.
3. A maximum of 25% of the Borough's obligation may be met with age restricted units. At least half of all affordable units in the Borough's Plan shall be non-restricted.
4. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low income units.
5. 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.
6. 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. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit. The Borough shall not be permitted to claim credit to satisfy its obligations under the Settlement Agreement for age-restricted units that exceed 25% of all units developed.

**B. Accessibility Requirements**

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multi-story 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 multi-story 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; and
- b. An adaptable kitchen on the first floor; and
- c. An interior accessible route of travel on the first floor; and
- d. An adaptable room that can be used as a bedroom, with a door or casing for the installation of a door, on the first floor; and
- e. If not all of the foregoing requirements in (2)(a) through (2)(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (2)(a) through (2)(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that Montvale has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
  - i. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - ii. To this end, the builder of restricted units shall deposit funds within the Borough of Montvale's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
  - iii. The funds deposited under paragraph (f)(2) above shall be used by the Borough of Montvale for the sole purpose of making the adaptable entrance of an 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.
  - iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the Borough of Montvale for the conversion of adaptable to accessible entrances.
  - v. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

- vi. 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.

C. Design.

1. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. 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, utilizing the regional income limits established by COAH or a successor entity.
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 rental 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, provided that at least 13% of all low- and moderate-income rental units shall be affordable to very-low income households, earning 30% or less of the regional median household income, with such very-low income units counted the low-income housing requirement.
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 sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, 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 one and one-half 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 four and one-half 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 and age-restricted developments, 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 one and one-half person household; and
  - c. A two-bedroom unit shall be affordable to a two-person household or 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 it 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 it 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 size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as it 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 it 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 permitted 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.

**§2B-11****Utilities.**

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

**§2B-12      Occupancy standards.**

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

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

**§2B-13      Control periods for restricted ownership units and enforcement measures.**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80- 26.5, as it may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Montvale takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- 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 without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial 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 restrictions set forth in 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 following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as it may be amended and supplemented.

**§2B-14 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 it 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 master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- 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 anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See **§2B-17**.

**§2B-15 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 it 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. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit moderate-income purchasers to buy low income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate income households shall retain the required pricing and pricing restrictions for low income units.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit.

- D. 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 eligible monthly income.

**§2B-16 Limitations on indebtedness secured by ownership unit; subordination.**

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of First Purchase Money Mortgages, 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 the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

**§2B-17 Capital improvements to ownership units.**

- A. 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 made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight- line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**§2B-18 Control periods for restricted units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as it may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Montvale takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as it may be amended and supplemented.
- 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 Bergen. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very-low, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. 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 of other voluntary transfer of the ownership of the unit; or
  - 3. The entry and enforcement of any judgement of foreclosure on the property containing the unit.

**§2B-19 Rent restrictions for rental units; leases.**

- A. A written lease shall be required for all restricted rental units 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.

**§2B-20 Tenant income eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as it 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 households 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 household, 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 it 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 reliable anticipated 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 A(1) through B(5) above with the Administrative Agent, who shall counsel the household on budgeting.

**Article II  
Municipal Housing Liaison**

**§2B-21 Municipal Housing Liaison.**

- A. The Borough of Montvale shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent.

The Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.

- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Montvale, including the following responsibilities which may not be contracted out to the Administrative Agent:
1. Serving as Montvale's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  2. Monitoring the status of all restricted units in Montvale's Fair Share Plan;
  3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
  4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
  5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.
- C. Subject to the approval of the Court, the Borough of Montvale shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the Borough Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).
- D. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of the Municipal Housing Liaison.

### **Article III Administrative Agent**

#### **§2B-22 Administrative Agent.**

The Administrative Agent shall be an independent entity serving under contract to and reporting to the Borough. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, .16 and .18 thereof, which include:

- A. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Montvale and the provisions of N.J.A.C. 5:80-26.15; and
- B. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- C. Household Certification:
  - 1. Soliciting, scheduling, conducting and following up on interviews with interested households;
  - 2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - 3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - 4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
  - 5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - 6. Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Montvale when referring households for certification to affordable units.
- D. Affordability Controls:
  - 1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - 2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  - 3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Bergen County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
  - 5. Communicating with lenders regarding foreclosures; and
  - 6. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

**E. Sales and Re-rentals:**

1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
2. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

**F. Processing Requests from Unit Owners:**

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Chapter;
2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
3. Notifying the Borough of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

**G. Enforcement:**

1. Securing annually from the Borough a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
5. Establishing a program for diverting unlawful rent payments to the Borough's Affordable Housing Trust Fund; and

6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.
- H. Additional Responsibilities:
1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
  2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
  3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

**Article IV**  
**Affirmative Marketing Requirements**

**§2B-23 Affirmative Marketing Requirements.**

- A. The Borough of Montvale shall adopt by resolution an Affirmative Marketing Plan, subject to the approval of the Court that is compliant with N.J.A.C. 5:80-25.15, as it 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 intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the FSHC, New Jersey State Conference of the NAACP, the Latino Action Network, Bergen County NAACP, Bergen Urban League and the Bergen County Housing Coalition of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 1 and is required to be followed throughout the period of restriction.
- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties.
- D. The Borough has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Borough of Montvale shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

- 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 Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Bergen County Administration Building, the Passaic County Administration Building, Hudson County Administration Building, County of Sussex (Newton), Montvale Free Public Library, Sussex County Main Library, Hudson County Library, Johnson Free Public Library (Hackensack), the Danforth Memorial Library (Paterson), the Montvale Municipal Building and the developer's rental office. Pre-applications may be emailed to prospective applicants upon request. Otherwise, hard copies are available from the Borough's Municipal Housing Liaison.
- I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

## **Article V Enforcement**

### **§2B-24 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 Borough shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in 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 Borough may take the following action(s) 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 Borough 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 adjudged 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 \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Montvale Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - b. In the case of an Owner who has rented a 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 Borough may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such 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- or moderate-income unit:
  - a. The judgment shall be enforceable, at the option of the Borough, 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 Borough, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - b. 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 Borough 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 Borough in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the Borough 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 Borough 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 Borough 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 Borough. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Borough, whether such balance shall be paid to the Owner or forfeited to the Borough.

- c. Foreclosure by the Borough 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.
- d. 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 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.
- e. Failure of the low and moderate income unit to be either sold at the Sheriff's sale or acquired by the Borough shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the Borough, 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.
- f. 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.

## **§2B-25 Appeals.**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Chapter shall be filed in writing with the Executive Director of COAH or with the Superior Court, Bergen County Vicinage.

### **Section 2.** Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

### **Section 3.** Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

### **Section 4.** Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 5.** Effective Date.

This ordinance shall become effective upon adoption and publication as required by law and upon approval of same by the Superior Court after a duly-noticed Compliance Hearing.

Ordinance No. **2018-1450** was introduced for second reading by Councilmember Weaver; seconded by Councilmember Lane; Clerk read by title only;

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes

**NO PUBLIC COMMENT**

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes

Motion to adopt on Second and Final Reading in Bergen Record by Councilmember Lane; seconded by Councilmember Curry; Clerk read by title only; a roll call vote was taken --- Councilmember Arendacs and Weaver voting No and Councilmembers Curry, Gloeggler, Koelling and Lane voting Yes

**PUBLIC HEARING ORDINANCE NO. 2018-1451** AN ORDINANCE AMENDING CHAPTER 57 THE LAND USE PROCEDURES ORDINANCE ARTICLE VII DEVELOPMENT FEES OF THE BOROUGH OF MONTVALE TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT

**WHEREAS**, in Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH); and

**WHEREAS**, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans, and municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential and residential development; and

**WHEREAS**, the Borough of Montvale has prepared a Spending Plan to submit to Hon. Menelaos W. Toskos, J.S.C. in connection with its pending declaratory judgment action concerning the Borough's affordable housing obligations, which incorporates the residential and non-residential development fees set forth in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey, as follows:

**Section 1.** Chapter 57 of the Borough Code, entitled "Land Use Procedures," Article VII, entitled "Development Fees," is hereby deleted in its entirety and replaced to read as follows:

**Article VII  
Development Fees**

**§57-50**      **Purpose.**  
**§57-51**      **Court approval required.**  
**§57-52**      **Definitions.**

<b>§57-53</b>	<b>Residential Development Fees.</b>
<b>§57-54</b>	<b>Non-Residential Development Fees.</b>
<b>§57-55</b>	<b>Collection procedures.</b>
<b>§57-56</b>	<b>Affordable Housing Trust Fund.</b>
<b>§57-58</b>	<b>Monitoring.</b>
<b>§57-59</b>	<b>On-going collection of fees.</b>

### **§57-50 Purpose.**

This Article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Article shall be used for the purpose of providing very-low, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

### **§57-51 Court approval required.**

- A. This Article shall not be effective unless and until approved by the Superior Court in connection with the Borough of Montvale's declaratory judgment action concerning its Third Round affordable housing obligations, Docket No. BER-L-6141-15.
- B. The Borough of Montvale shall not spend development fees collected pursuant to this Article unless and until the Superior Court has approved a Spending Plan for such fees.

### **§57-52 Definitions.**

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

#### **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 municipally-sponsored construction project or a 100% affordable housing development.

#### **COAH OR THE COUNCIL**

The New Jersey Council on Affordable Housing established under the Fair Housing Act, or any successor agency.

#### **DEVELOPMENT FEE**

Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

#### **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 other person having an enforceable proprietary interest in such land.

**EQUALIZED ASSESSED VALUE**

The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

**GREEN BUILDING STRATEGIES**

Strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

**§57-53 Residential Development Fees.****A. Imposition of Fees.**

1. Within the Borough of Montvale, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of 1.5% of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
2. When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

**B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments.**

1. Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Montvale, shall be exempt from the payment of development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
3. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

4. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirements. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

#### **§57-54 Non-Residential Development Fees.**

##### **A. Imposition of Fees.**

1. Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

##### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development.**

1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
2. The 2.5% development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

5. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Montvale as a lien against the real property of the owner.

**§57-55 Collection procedures.**

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should the Borough of Montvale fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- H. Except as provided in §57-54A(3) hereinabove, 50% of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

**I. Appeal of Development Fees.**

1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Montvale. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Montvale. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**§57-56 Affordable Housing Trust Fund.**

- A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Montvale for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  1. Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Montvale;
  2. Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  3. Rental income from municipally operated units;
  4. Repayments from affordable housing program loans;
  5. Recapture funds;
  6. Proceeds from the sale of affordable units; and
  7. Any other funds collected in connection with Montvale's affordable housing program.

- C. In the event of a failure by the Borough of Montvale to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Montvale, or, if not practicable, then within the County.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

#### **§57-57 Use of Funds.**

- A. The expenditure of all funds shall conform to a Spending Plan approved by the Superior Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Montvale's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the Borough of Montvale for past housing activities.
- C. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region 1, in which Montvale is located.

1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  2. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low income affordability assistance shall be identified and described within the Spending Plan.
  3. Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Montvale, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Montvale may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- E. No more than 20% of all revenues collected from development fees may be expended on administration, including but not limited to salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
1. In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  2. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or actions are not eligible uses of the Affordable Housing Trust Fund.

**§57-58 Monitoring.**

The Borough of Montvale shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, COAH and Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH or Local Government Services.

**§57-59 Ongoing collection of fees.**

- A. The ability of the Borough of Montvale to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as the Borough of Montvale has

filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

- B. If the Borough of Montvale is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- C. After the expiration of the Judgment of Compliance, if the Borough does not pursue or obtain continued authorization, the Borough of Montvale shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

**Section 2.** Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 3.** Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**Section 4.** Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 5.** Effective Date.

This ordinance shall become effective upon adoption and publication as required by law and upon approval of same by the Superior Court after a duly-noticed Compliance Hearing.

Ordinance No. **2018-1451** was introduced for second reading by Councilmember Weaver; seconded by Councilmember Lane; Clerk read by title only;

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry – all ayes

**NO PUBLIC COMMENT**

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes

Motion to adopt on Second and Final Reading in Bergen Record by Councilmember Lane; seconded by Councilmember Koelling; Clerk read by title only ; a roll call vote was taken ---

Motion to adopt on Second and Final Reading in Bergen Record by Councilmember Lane; seconded by Councilmember Curry ---- Clerk read by title only ----- A roll call vote was taken --- Councilmember d Weaver voting No and Councilmembers Arendacs, Curry, Gloeggler, Koelling and Lane voting Yes

**PUBLIC HEARING ORDINANCE NO. 2018-1452** AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 128 OF THE CODE OF THE BOROUGH OF MONTVALE TO RENAME SECTION 128-5.5 TO BE ENTITLED "OVERLAY DISTRICTS" AND TO ESTABLISH THE MIXED-USE INCLUSIONARY 1 (MI-1) OVERLAY DISTRICT, THE MIXED-USE INCLUSIONARY 2 (MI-2) OVERLAY DISTRICT, AND THE MIXED-USE INCLUSIONARY 3 (MI-3) OVERLAY DISTRICT AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

**WHEREAS**, the Borough of Montvale has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region's need for affordable housing; and

**WHEREAS**, the Borough Council of the Borough of Montvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

**WHEREAS**, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) ("Mt. Laurel IV") seeking approval of a Housing Element and Fair Share Plan that satisfies the Borough's obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

**WHEREAS**, after a Fairness Hearing held on January 25, 2018, by Order dated February 12, 2018, Hon. Menelaos W. Toskos, J.S.C. approved a series of settlement agreements between the Borough of Montvale, Fair Share Housing Center and three developer-intervenors, which were intended to establish the Borough's affordable housing obligations; and

**WHEREAS**, pursuant to the requirements of the February 12, 2018 Order, the Borough of Montvale intends to supplement its Zoning Ordinance to include provisions addressing Montvale's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Montvale Planning Board has adopted a Housing Element and Fair Share Plan dated April 17, 2018 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, this Ordinance is intended to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body; and

**WHEREAS**, the Borough Council has determined that certain lands comprised of Block 703, Lot 7 within the B-1 Business District are suited for overlay zoning to permit mixed-use inclusionary residential development (the "Mixed-Use Inclusionary 1 (MI-1) Overlay District"); and

**WHEREAS**, the Borough Council has determined that certain lands comprised of Block 1601, Lots 1, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23 (partial) and 24 (partial), Block 1603, Lot 1, and Block 2401, Lots 2, 3 and 4, within the B-1 Business District are suited for overlay zoning to permit mixed-use inclusionary development (the "Mixed-Use Inclusionary 2 (MI-2) Overlay District"); and

**WHEREAS**, the Borough Council has determined that certain lands comprised of Block 1604, Lots 1 and 2, Block 1605, Lots 1 and 2, Block 1606, Lots 1, 2, 3, 4 and 5, Block 2402, Lots 1, 2, 3, 5, 6, 7, 8 and 9, Block 2403, Lot 1, Block 2404, Lot 1, Block 2405, Lots 1, 2, 3, 4, 25 and 26, Block 2406, Lots 1, 2 and 3, and Block 2408, Lots 2 and 3 within the B-1 Business District are suited for overlay zoning to permit mixed-use inclusionary development (the "Mixed-Use Inclusionary 3 (MI-3) Overlay District"); and

**WHEREAS**, the locations of these sites are proximate to other multi-family housing developments.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Montvale in the County of Bergen and the State of New Jersey as follows:

**Section 1.** Chapter 128 of the Code of the Borough of Montvale, Section 128-2.1, "Classes of districts" is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

**§ 128-2.1      Classes of districts.**

MI-1 Mixed-Use Inclusionary 1 Overlay District

MI-2 Mixed-Use Inclusionary 2 Overlay District

MI-3 Mixed-Use Inclusionary 3 Overlay District

**Section 2.** Chapter 128 of the Code of the Borough of Montvale, Section 128-3.1 "Definitions," subsection B, is hereby amended and supplemented by adding the underlined text alphabetically, as follows:

**INDOOR RECREATION**

A recreational land use conducted entirely within a building, including but not limited to an arcade, rock climbing, bowling alley, community center, gymnasium, swimming pool or tennis courts.

**PERSONAL SERVICE ESTABLISHMENT**

Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Personal service establishments include, but are not limited to, cleaning and garment services, clothing rental, carpet and upholstery cleaning, photograph studios, beauty shops, barbershops, tailors, travel agents, shoe repair, funeral services and domestic services.

**Section 3.** Chapter 128 of the Code of the Borough of Montvale is hereby amended and supplemented by renaming Section 128-5.5 "Overlay Districts," and amending and supplementing said section to read as follows:

**§ 128-5.5      Overlay Districts**

- A. The Borough of Montvale has established the following Overlay Districts within the Borough of Montvale:
1.      MI-1 Mixed-Use Inclusionary 1 Overlay District
  2.      MI-2 Mixed Use Inclusionary 2 Overlay District
  3.      MI-3 Mixed Use Inclusionary 3 Overlay District

B. Mixed-Use Inclusionary 1 ("MI-1") Overlay District. The following standards shall apply to development within the MI-1 Overlay District. When the standards herein conflict with other provisions of Chapter 128, the standards herein shall apply.

1. Purpose. The purpose of the MI-1 Overlay District is to provide a realistic opportunity for the construction of affordable housing as part of a mixed-use inclusionary development. The MI-1 Overlay District shall be applied as an overlay zone to the underlying B-1 District. This approach provides property owners and developers with the opportunity to utilize either set of zoning regulations as they deem preferable.
2. Permitted principal uses. In the MI-1 Overlay District, the following uses shall be permitted:
  - a. Restaurants. However, no drive-thru, drive-in or curbside restaurants shall be permitted.
  - b. Retail stores where goods are sold or services are rendered and where nothing is fabricated or manufactured or converted or altered except for such retail trade. Specifically excepted from the foregoing are any uses which involve the repair and/or maintenance of vehicles, which are prohibited.
  - c. Offices, banks and financial institutions, including medical and professional offices.
  - d. Personal service establishments.
  - e. Child-care centers.
  - f. Multi-family residential units above the ground floor.
  - g. A mixture or combination of the above uses.
3. Permitted accessory uses.
  - a. Tenant amenities including but not limited to recreational and fitness facilities, lobbies, leasing and management offices and mail rooms.
  - b. Outdoor dining, associated with permitted restaurant uses, subject to the following conditions:
    - i. Tables shall be located on private property and not in the public right-of-way.
    - ii. Fencing, bollards or planters shall be used to define the outdoor dining area.
    - iii. No outdoor dining shall be permitted after 12:00 a.m.
    - iv. All lighting shall be downward-facing and shall be turned off no later than 12:30 a.m.

- v. Outdoor dining shall not include an outdoor bar or any other similar outdoor accessory use that serves only beverages, nor does it include any drive-through or take-out windows.
  - vi. Approval shall not be construed as approval by the Borough Council for extension and/or renewal of any license under ABC jurisdiction.
  - vii. No amplified music shall be permitted.
  - viii. Outdoor seating shall count for purposes of calculating parking requirements.
- c. Waste and recycling receptacles.
- d. Surface parking and parking incorporated into the building design.
- e. Any use customary and incidental to a permitted principal use.
- f. Signs.
- g. Fences and walls.
- 4. Bulk area and other dimensional standards.
  - a. Minimum lot area – 4 acres
  - b. Minimum front yard – 100 feet (measured from street center line)
  - c. Minimum side yard – 20 feet
  - d. Minimum rear yard – 60 feet
  - e. Maximum building coverage – 60%
  - f. Maximum lot coverage – 85%
  - g. Maximum density – 12 units per acre
  - h. Maximum building height – 3 stories and 40 feet
  - i. Retaining walls, sidewalks, walkways, fences, above-ground and underground utilities shall be permitted within the setbacks.
- 5. Affordable Housing requirements
  - a. 20% of all for-sale units in the MI-1 Overlay District shall be set aside for affordable households.
  - b. 15% of all rental units in the MI-1 Overlay District shall be set aside for affordable households.

- c. Affordable units shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Chapter 2B, "Affordable Housing Regulations."
  - d. The development, unit distribution and marketing of all affordable units shall be undertaken consistent with Chapter 2B, "Affordable Housing Regulations," the Uniform Housing Affordability Controls, and all other applicable laws, rules and regulations, including applicable COAH regulations, the Fair Housing Act and its requirement that at least 13% of all affordable units associated with this project be made affordable to very-low income households.
  - e. The Developer shall be responsible for all costs associated with the initial sale or rental of the affordable units, and for the continuing administration of the affordable units and the preservation of the creditworthiness of the units.
6. Architecture
- a. Long, monotonous, uninterrupted walls or roof planes shall be avoided. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
    - i. The maximum spacing between building wall offsets shall be 50 feet.
    - ii. The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
    - iii. The maximum spacing between roof offsets shall be 50 feet.
    - iv. Projecting balconies are prohibited along front or side façades. Where located along a rear façade, projecting balconies may encroach up to 3 feet into a required rear yard setback.
  - b. The architectural treatment of the front façade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors and details.
  - c. Fenestration
    - i. Windows shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
    - ii. All ground-level restaurant, retail and service uses shall have clear glass on at least 60% of their façades (applicable to all façades visible from the public street) between 3 and 8 feet above grade.

7. Parking. Any structured or stilted parking area beneath a building must be disguised or obscured with no less than 50% of the ground floor frontage occupied by an active use (residential lobbies included), and the remainder shall have window openings to match the floors above and evergreen foundation plantings no less than 3 feet in height to soften the impact of the wall.
8. Entrances.
  - a. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, canopies, overhangs, railings, etc.
  - b. Residential units must be accessed by a secure lobby separate from any other uses taking place within the building.
9. Mechanicals and utilities.
  - a. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall not be visible from the public right-of-way except where required by the public utility. The requirements of §128-6.4, regarding satellite antennas, shall apply.
  - b. All rooftop mechanical equipment, inclusive of solar equipment, shall be screened from view from all vantage points at grade or below the roof.
  - c. Placement of any packaged terminal air conditioner units within the façade is prohibited.
10. Sidewalks and landscaping. Sidewalks and landscaped beds fronting any building shall be no less than 8 feet in depth combined.
11. Refuse and Recycling.
  - a. Regulations of §128-7.8 apply for mixed-use structures with residential units.
  - b. Refuse and recycling must be located either:
    - i. Interior to a building in a designated refuse storage area, or
    - ii. Located in a side or rear yard setback area, no closer than 5 feet to any adjacent lot line, enclosed on all four sides, and screened using durable materials.
12. Landscaping. Pervious areas shall be landscaped with a mix of deciduous and evergreen trees and low ground cover or grass.
13. Parking.
  - a. Parking areas shall be subject to landscaping requirements per §128-7.1(K).

- b. Parking areas between the street line and front façade must provide a sidewalk providing a safe pedestrian connection between the public right-of-way and the building entrance(s). Such sidewalk must be a minimum of 5 feet wide, buffered by 2 feet of landscaping on each side where adjacent to a parking area, driveway, or drive aisle.
  - c. Minimum parking requirements.
    - i. Retail uses, offices including medical and professional uses, banks, financial institutions, and personal services uses: one off-street parking space for each 200 square feet of floor area.
    - ii. Restaurants and any establishment which engages in the serving of food and/or beverages for consumption on and/or off the premises: one off-street parking space for every three seats provided and, in addition thereto, one parking space for every ten square feet of floor area made available to customers for off-premises consumption services.
    - iii. Child care centers: one off-street parking space for each 300 feet of floor area.
    - iv. Residential uses: as required by RSIS.
  - d. Location of parking
    - i. All structured or stilted parking shall be accessed only from the rear or side of the site. No parking garage egress shall be available from the front of the building.
    - ii. Surface parking between buildings and the street line is permitted, in accordance with §128-7.1.
  - e. Additional parking requirements. Where uses share access to parking spaces, the required ratios above may be lowered by the Planning Board, based upon a shared parking analysis, which demonstrates to the reasonable satisfaction of the Planning Board that the combined peak parking demand can be satisfied for those shared parking facilities at a lower combined ratio.
- C. Mixed-Use Inclusionary 2 ("MI-2") Overlay District. The following standards shall apply to development within the MI-2 Overlay District. When the standards herein conflict with other provisions of Chapter 128, the standards herein shall apply.
- 1. Purpose. The purpose of the MI-2 Overlay District is to provide a realistic opportunity for the construction of affordable housing as part of a mixed-use inclusionary development. The MI-2 Overlay District shall be applied as an overlay zone to the underlying B-1 District. This approach provides property owners and developers with the opportunity to utilize either set of zoning regulations as they deem preferable.
  - 2. Permitted principal uses. In the MI-2 Overlay District, the following uses shall be permitted:

- a. Restaurants. However, no drive-thru, drive-in or curbside restaurants shall be permitted.
  - b. Retail stores where goods are sold or services are rendered and where nothing is fabricated or manufactured or converted or altered except for such retail trade. Specifically excepted from the foregoing are any uses which involve the repair and/or maintenance of vehicles, which are prohibited.
  - c. Offices, banks and financial institutions, including medical and professional offices.
  - d. Personal service establishments.
  - e. Child-care centers.
  - f. Indoor recreation.
  - g. Multi-family residential units above the ground floor.
  - h. A mixture or combination of the above uses.
3. Permitted accessory uses.
- a. Tenant amenities including but not limited to recreational and fitness facilities, lobbies, leasing and management offices and mail rooms.
  - b. Outdoor dining, associated with permitted restaurant uses, subject to the following conditions:
    - i. Tables shall be located on private property and not in the public right-of-way.
    - ii. Fencing, bollards or planters shall be used to define the outdoor dining area.
    - iii. No outdoor dining shall be permitted after 12:00 a.m.
    - iv. All lighting shall be downward-facing and shall be turned off no later than 12:30 a.m.
    - v. Outdoor dining shall not include an outdoor bar or any other similar outdoor accessory use that serves only beverages, nor does it include any drive-through or take-out windows.
    - vi. Approval shall not be construed as approval by the Borough Council for extension and/or renewal of any license under ABC jurisdiction.
    - vii. No amplified music shall be permitted.
    - viii. Outdoor seating shall count for purposes of calculating parking requirements.

- c. Waste and recycling receptacles.
  - d. Surface parking.
  - e. Any use customary and incidental to a permitted principal use.
  - f. Signs.
  - g. Fences and walls.
4. Bulk area and other dimensional standards.
- a. Minimum lot area – 7,500 square feet
  - b. Minimum lot width – 75 feet
  - c. Minimum front yard – 5 feet (measured from property line)
  - d. Maximum front yard – 10 feet (measured from property line)
  - e. Minimum side yard – 5 feet (one); 15 feet (aggregate)
  - f. Minimum rear yard – 30 feet
  - g. Maximum building coverage – 60%
  - h. Maximum lot coverage – 90%
  - i. Maximum density – 12 units per acre
  - j. Maximum building height – 3 stories and 40 feet
  - k. Retaining walls, sidewalks, walkways, fences, above-ground and underground utilities shall be permitted within the setbacks.
5. Affordable Housing requirements
- a. 20% of all for-sale units in the MI-2 Overlay District shall be set aside for affordable households.
  - b. 15% of all rental units in the MI-2 Overlay District shall be set aside for affordable households.
  - c. Affordable units shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Chapter 2B, “Affordable Housing Regulations.”

- d. The development, unit distribution and marketing of all affordable units shall be undertaken consistent with Chapter 2B, "Affordable Housing Regulations," the Uniform Housing Affordability Controls, and all other applicable laws, rules and regulations, including applicable COAH regulations, the Fair Housing Act and its requirement that at least 13% of all affordable units associated with this project be made affordable to very-low income households.
  - e. The Developer shall be responsible for all costs associated with the initial sale or rental of the affordable units, and for the continuing administration of the affordable units and the preservation of the creditworthiness of the units.
6. Architecture
- a. Long, monotonous, uninterrupted walls or roof planes shall be avoided. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
    - i. The maximum spacing between building wall offsets shall be 40 feet.
    - ii. The minimum projection or depth of any individual vertical offset shall be 1.5 feet.
    - iii. The maximum spacing between roof offsets shall be 40 feet.
    - iv. Projecting balconies are prohibited along front or side façades. Where located along a rear façade, projecting balconies may encroach up to 3 feet into a required rear yard setback.
  - b. The architectural treatment of the front façade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors and details.
  - c. Fenestration
    - i. Windows shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
    - ii. All ground-level restaurant, retail and service uses shall have clear glass on at least 60% of their façades (applicable to all façades visible from the public street) between 3 and 8 feet above grade.
7. Entrances.
- a. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, canopies, overhangs, railings, etc.

- b. Residential units must be accessed by a secure lobby separate from any other uses taking place within the building.
- 8. Mechanicals and utilities.
  - a. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall not be visible from the public right-of-way except where required by the public utility. The requirements of §128-6.4, regarding satellite antennas, shall apply.
  - b. All rooftop mechanical equipment, inclusive of solar equipment, shall be screened from view from all vantage points at grade or below the roof.
  - c. Placement of any packaged terminal air conditioner units within the façade is prohibited.
- 9. Sidewalks and landscaping. Sidewalks and landscaped beds fronting any building shall be no less than 8 feet in depth combined.
- 10. Refuse and Recycling.
  - a. Regulations of §128-7.8 apply for mixed-use structures with residential units.
  - b. Refuse and recycling must be located either:
    - i. Interior to a building in a designated refuse storage area, or
    - ii. Located in a side or rear yard setback area, no closer than 5 feet to any adjacent lot line, enclosed on all four sides, and screened using durable materials.
- 11. Landscaping. Pervious areas shall be landscaped with a mix of deciduous and evergreen trees and low ground cover or grass.
- 12. Parking.
  - a. Parking areas shall be subject to landscaping requirements per §128-7.1(K).
  - b. Minimum parking requirements.
    - i. Retail uses, offices including medical and professional uses, banks, financial institutions, and personal services uses: one off-street parking space for each 200 square feet of floor area.
    - ii. Restaurants and any establishment which engages in the serving of food and/or beverages for consumption on and/or off the premises: one off-street parking space for every three seats provided and, in addition thereto, one parking space for every ten square feet of floor area made available to customers for off-premises consumption services.
    - iii. Child care centers: one off-street parking space for each 300 feet of floor area.

- iv. Indoor recreation: one space per 200 square feet of floor area
  - v. Residential uses: as required by RSIS.
  - c. Location of parking. All parking shall be located to the side or rear of a building. Said parking shall be well-screened to a minimum height of four feet by the use of appropriate plantings of sufficient height and density so as to obscure the view of such parking areas from all streets. Where a parking lot abuts a residential zone, no parking shall be located closer than 15 feet to said zone boundary.
  - d. In cases where adjacent property owners agree to provide a shared access driveway, the following applies:
    - i. Minimum one-way driveway width: 12 feet
    - ii. Minimum two-way driveway width: 24 feet
    - iii. Maximum driveway width: 30 feet
    - iv. Driveways may be centered on the shared lot line or offset to any degree as agreed to by the property owners.
    - v. A permanent easement for shared access to rear parking areas shall be filed with the property deeds.
  - e. Parking shall be subject to additional requirements per §128-7.1 and loading per §128-7.6.
- D. Mixed-Use Inclusionary 3 ("MI-3") Overlay District. The following standards shall apply to development within the MI-3 Overlay District. When the standards herein conflict with other provisions of Chapter 128, the standards herein shall apply.
- 1. Purpose. The purpose of the MI-3 Overlay District is to provide a realistic opportunity for the construction of affordable housing as part of a mixed-use inclusionary development. The MI-3 Overlay District shall be applied as an overlay zone to the underlying B-1 District. This approach provides property owners and developers with the opportunity to utilize either set of zoning regulations as they deem preferable.
  - 2. Permitted principal uses. In the MI-3 Overlay District, the following uses shall be permitted:
    - a. Restaurants. However, no drive-thru, drive-in or curbside restaurants shall be permitted.
    - b. Retail stores where goods are sold or services are rendered and where nothing is fabricated or manufactured or converted or altered except for such retail trade. Specifically excepted from the foregoing are any uses which involve the repair and/or maintenance of vehicles, which are prohibited.
    - c. Offices, banks and financial institutions, including medical and professional offices.
    - d. Personal service establishments.

- e. Child-care centers.
  - f. Multi-family residential units above the ground floor.
  - g. A mixture or combination of the above uses.
3. Permitted accessory uses.
- a. Tenant amenities including but not limited to recreational and fitness facilities, lobbies, leasing and management offices and mail rooms.
  - b. Outdoor dining, associated with permitted restaurant uses, subject to the following conditions:
    - i. Tables shall be located on private property and not in the public right-of-way.
    - ii. Fencing, bollards or planters shall be used to define the outdoor dining area.
    - iii. No outdoor dining shall be permitted after 12:00 a.m.
    - iv. All lighting shall be downward-facing and shall be turned off no later than 12:30 a.m.
    - v. Outdoor dining shall not include an outdoor bar or any other similar outdoor accessory use that serves only beverages, nor does it include any drive-through or take-out windows.
    - vi. Approval shall not be construed as approval by the Borough Council for extension and/or renewal of any license under ABC jurisdiction.
    - vii. No amplified music shall be permitted.
    - viii. Outdoor seating shall count for purposes of calculating parking requirements.
  - c. Waste and recycling receptacles.
  - d. Surface parking.
  - e. Any use customary and incidental to a permitted principal use.
  - f. Signs.
  - g. Fences and walls.
4. Bulk area and other dimensional standards.
- a. Minimum lot area – 7,500 square feet
  - b. Minimum lot width – 75 feet
  - c. Minimum front yard – 5 feet (measured from property line)

- d. Maximum front yard – 10 feet (measured from property line)
  - e. Minimum side yard – 5 feet (one); 15 feet (aggregate)
  - f. Minimum rear yard – 30 feet
  - g. Maximum building coverage – 60%
  - h. Maximum lot coverage – 90%
  - i. Maximum density – 15 units per acre
  - j. Maximum building height – 3 stories and 40 feet
  - k. Retaining walls, sidewalks, walkways, fences, above-ground and underground utilities shall be permitted within the setbacks.
5. Affordable Housing requirements
- a. 20% of all for-sale units in the MI-3 Overlay District shall be set aside for affordable households.
  - b. 15% of all rental units in the MI-3 Overlay District shall be set aside for affordable households.
  - c. Affordable units shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Chapter 2B, “Affordable Housing Regulations.”
  - d. The development, unit distribution and marketing of all affordable units shall be undertaken consistent with Chapter 2B, “Affordable Housing Regulations,” the Uniform Housing Affordability Controls, and all other applicable laws, rules and regulations, including applicable COAH regulations, the Fair Housing Act and its requirement that at least 13% of all affordable units associated with this project be made affordable to very-low income households.
  - e. The Developer shall be responsible for all costs associated with the initial sale or rental of the affordable units, and for the continuing administration of the affordable units and the preservation of the creditworthiness of the units.
6. Architecture
- a. Long, monotonous, uninterrupted walls or roof planes shall be avoided. Building wall offsets, including projections such as canopies and recesses shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, in the case of a pitched roof, roofline offsets, dormers or gables shall be provided in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
    - i. The maximum spacing between building wall offsets shall be 40 feet.
    - ii. The minimum projection or depth of any individual vertical offset shall be 1.5 feet.

- iii. The maximum spacing between roof offsets shall be 40 feet.
    - iv. Projecting balconies are prohibited along front or side façades. Where located along a rear façade, projecting balconies may encroach up to 3 feet into a required rear yard setback.
  - b. The architectural treatment of the front façade shall be continued in its major features around all visibly exposed sides of a building. All sides of a building facing a public street shall be architecturally designed to be consistent with regard to style, materials, colors and details.
  - c. Fenestration
    - i. Windows shall be architecturally compatible with the style, materials, colors and details of the building. Windows shall be vertically proportioned.
    - ii. All ground-level restaurant, retail and service uses shall have clear glass on at least 60% of their façades (applicable to all façades visible from the public street) between 3 and 8 feet above grade.
- 7. Entrances.
  - a. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, canopies, overhangs, railings, etc.
  - b. Residential units must be accessed by a secure lobby separate from any other uses taking place within the building.
- 8. Mechanicals and utilities.
  - a. Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall not be visible from the public right-of-way except where required by the public utility. The requirements of §128-6.4, regarding satellite antennas, shall apply.
  - b. All rooftop mechanical equipment, inclusive of solar equipment, shall be screened from view from all vantage points at grade or below the roof.
  - c. Placement of any packaged terminal air conditioner units within the façade is prohibited.
- 9. Sidewalks and landscaping. Sidewalks and landscaped beds fronting any building shall be no less than 8 feet in depth combined.
- 10. Refuse and Recycling.
  - a. Regulations of §128-7.8 apply for mixed-use structures with residential units.
  - b. Refuse and recycling must be located either:
    - i. Interior to a building in a designated refuse storage area, or

- ii. Located in a side or rear yard setback area, no closer than 5 feet to any adjacent lot line, enclosed on all four sides, and screened using durable materials.
- 11. Landscaping. Pervious areas shall be landscaped with a mix of deciduous and evergreen trees and low ground cover or grass.
- 12. Parking.
  - a. Parking areas shall be subject to landscaping requirements per §128-7.1(K).
  - b. Minimum parking requirements.
    - i. Retail uses, offices including medical and professional uses, banks, financial institutions, and personal services uses: one off-street parking space for each 200 square feet of floor area.
    - ii. Restaurants and any establishment which engages in the serving of food and/or beverages for consumption on and/or off the premises: one off-street parking space for every three seats provided and, in addition thereto, one parking space for every ten square feet of floor area made available to customers for off-premises consumption services.
    - iii. Child care centers: one off-street parking space for each 300 feet of floor area.
    - iv. Residential uses: as required by RSIS.
  - c. Location of parking. All parking shall be located to the side or rear of a building. Said parking shall be well-screened to a minimum height of four feet by the use of appropriate plantings of sufficient height and density so as to obscure the view of such parking areas from all streets. Where a parking lot abuts a residential zone, no parking shall be located closer than 15 feet to said zone boundary.
  - d. In cases where adjacent property owners agree to provide a shared access driveway, the following applies:
    - i. Minimum one-way driveway width: 12 feet
    - ii. Minimum two-way driveway width: 24 feet
    - iii. Maximum driveway width: 30 feet
    - iv. Driveways may be centered on the shared lot line or offset to any degree as agreed to by the property owners.
    - v. A permanent easement for shared access to rear parking areas shall be filed with the property deeds.
  - e. Parking shall be subject to additional requirements per §128-7.1 and loading per §128-7.6.

**Section 4.** Signs in non-residential districts. Chapter 128 of the Code of the Borough of Montvale is hereby amended and supplemented by revising §128-9.7A.6 "Signs in nonresidential districts" by adding the underlined text as follows:

§ 128-9.7A.6 Signs in non-residential districts.

- A. In the instance of any use permitted in any non-residential zoning district, there shall be permitted the location of one sign to be erected on any parcel or lot on which there is a building, which sign may be freestanding or affixed to said structure as hereinafter provided.
- (1) If attached to a building, the horizontal linear dimensions of such sign shall not exceed 30% of the width of the building wall to which it is to be affixed. The maximum height of such sign shall not exceed two feet if the building wall is 40 feet or less in width; 2 1/2 feet if the building wall is more than 40 feet but less than 80 feet in width; and three feet if the building wall is 80 feet or more in width.
  - (2) Any freestanding sign in the OR-1, OR-2, OR-3 and SED Zoning Districts, which sign may be two-sided, shall not be located more than 2 1/2 feet above the lowest grade elevation below it. The height of the sign shall not exceed six feet, nor shall its width exceed 12 linear feet. The maximum area of any such sign shall not exceed 32 square feet
  - (3) Any freestanding sign in the B-1 and B-2 Zoning Districts and in the MI-1, MI-2 and MI-3 Overlay Districts, which sign may be two-sided, shall be located not more than 4 1/2 feet above the lowest grade elevation below it. The height of the sign shall not exceed 9 1/2 feet. The maximum area of such freestanding sign shall not exceed 20 square feet, provided that in the event there exists on the premises to which such sign is to be located more than 15 business units, then in such event the area of such sign may be increased by one square foot for each such business unit, which area as extended shall nevertheless not exceed 25 square feet.
- B. Where a developed tract or parcel on which there is a building is bordered along front and back property lines by parallel roads, streets, avenues or highways, there shall be permitted two freestanding or affixed signs, one oriented to the back of the property and one oriented to the front of the property. Should application be made for erection of two signs pursuant to this provision, approval shall be contingent upon a showing of total conformance to bulk, color and location requirements detailed and provided in Subsection A above.
- C. In the B-1 and B-2 Districts, and in the MI-1, MI-2 and MI-3 Overlay Districts, in addition to any sign or signs permitted pursuant to this section, a sign or signs, limited to demonstrate or evidence membership in a retail or professional organization or credit card or credit association or plan or to show manufacturers' or required licenses or advertisements referable to sales within, shall be permitted to be attached to windows on the interior of the business use, provided that the aggregate area employed for such purpose shall not exceed 20% of the total window area.

**Section 5.** The Official Zoning Map shall be changed for the following Blocks and Lots to add the following overlay zoning designations to the underlying B-1 District zoning:

MI-1 Overlay District: Block 703, Lot 7

MI-2 Overlay District:       Block 1601, Lots 1, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23 (partial)  
  and 24 (partial)  
  Block 1603, Lot 1

Block 2401, Lots 2, 3 and 4

MI-3 Overlay District: Block 1604, Lots 1 and 2  
                                  Block 1605, Lots 1 and 2  
                                  Block 1606, Lots 1, 2, 3, 4 and 5  
                                  Block 2402, Lots 1, 2, 3, 5, 6, 7, 8 and 9  
                                  Block 2403, Lot 1  
                                  Block 2404, Lot 1  
                                  Block 2405, Lots 1, 2, 3, 4, 25 and 26  
                                  Block 2406, Lots 1, 2 and 3  
                                  Block 2408, Lots 2 and 3

**Section 6.** Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 7.** Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

**Section 8.** Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**Section 9.** Effective Date.

This ordinance shall become effective upon adoption and publication as required by law and upon approval of same by the Superior Court after a duly-noticed Compliance Hearing.

Ordinance No. **2018-1452** was introduced for second reading by Councilmember Weaver; seconded by Councilmember Lane; Clerk read by title only;

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Curry - all ayes

**NO PUBLIC COMMENT**

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Koelling - all ayes

Motion to adopt on Second and Final Reading in Bergen Record by Councilmember Lane; seconded by Councilmember Koelling; Clerk read by title only; a roll call vote was taken --- Councilmember Arendacs and Weaver voting No and Councilmembers Curry, Gloeggler, Koelling and Lane voting Yes

**INTRODUCTION OF ORDINANCE NO. 2018-1453 AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 84 OF THE BOROUGH CODE TO REVISE CERTAIN PROVISIONS CONCERNING THE EDUCATIONAL REQUIREMENTS FOR APPOINTMENT TO THE POLICE DEPARTMENT  
(Public Hearing 6/12/2018)**

Borough Attorney explained that this was a request some time ago from the Police Chief to be able to expand the requirements to applicants that have military service, or 4 year degree;

A motion to Introduce Ordinance **2018-1453** for first reading was made by Councilmember Weaver; seconded by Councilmember Lane; Clerk read by title only; Councilmember Lane made a motion that this ordinance be passed on first reading and advertised in The Ridgewood News; seconded by Councilmember Koelling - A roll call was taken – all ayes

Councilmember Weaver asked if this is a State requirement or the Police Chief recommendation; the Police Chief will attend the public hearing on June 12<sup>th</sup>;

**PUBLIC HEARING:**  
**BERGEN COUNTY 2018 MUNICIPAL PARK IMPROVEMENT GRANT PROGRAM LaTRENTA FIELD COMPLEX PHASE II**

The Borough Engineer gave an explanation regarding the grant being applied for LaTrenta Field; this public hearing is a requirement of the grant process; this is a Bergen County grant which will be matching funds at a cost to Montvale of \$65,000

A motion to open the meeting to the public by Councilmember Lane; seconded by Councilmember Gloeggler – all ayes

**NO PUBLIC COMMENT**

A motion to close the meeting to the public by Councilmember Lane; seconded by Councilmember Koelling – all ayes

Councilmember Weaver stated this may not be a good decision to spend the money; the lighting is not good, there is a drainage issue in the outfield; it doesn't get much use; Mr. Weaver asked if we can turn down the offer, the engineer stated yes but this hasn't been awarded yet.

**120a-2018 Re: Trust Fund Application Municipal Endorsing Resolution/LaTrenta Field Complex/Phase II**

**WHEREAS**, the Bergen County Open Space, Recreation, Floodplain Protection, Farmland & Historic Preservation Trust Fund ("County Trust Fund"), provides matching grants to municipal governments and to nonprofit organizations for assistance in the development or redevelopment of outdoor municipal recreation facilities; and,

**WHEREAS**, the Borough of Montvale desires to further the public interest by obtaining a matching grant of \$65,000.00 from the County Trust Fund to fund the following project: La Trenta Field Complex Field No. 2 Clay Infield Removal/Synthetic Turf Replacement; and,

**WHEREAS**, the governing body/board has reviewed the County Trust Fund Program Statement, and the Trust Fund Municipal Program Park Improvement application and instructions, and desires to make an application for such a matching grant and provide application information and furnish such documents as may be required; and,

**WHEREAS**, as part of the application process, the governing body/board received held the required Public Hearing to receive public comments on the proposed park improvements in the application on May 29, 2018; and,

**WHEREAS**, the County of Bergen shall determine whether the application is complete and in conformance with the scope and intent of the County Trust Fund; and,

**WHEREAS**, the applicant is willing to use the County Trust Fund in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the County of Bergen for the above named project and ensure its completion on or about the project contract expiration date.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Montvale Mayor & Council:

1. That it is hereby authorized to submit the above completed project application to the County by the deadline of **June 18, 2018**, as established by the County; and,
2. That, in the event of a County Trust Fund award that may be less than the grant amount requested above, the Borough of Montvale Mayor & Council has, or will secure, the balance of funding necessary to complete the project, or modify the project as necessary; and,
3. That the Borough of Montvale Mayor & Council is committed to providing a dollar for dollar cash match for the project; and,
4. That only those park improvements identified and approved in the project application, its Trust Fund contract, or other documentation will be considered eligible for reimbursement.
5. That the Borough of Montvale Mayor & Council agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and,
6. That this resolution shall take effect immediately.

Introduced by: Councilmember Lane; seconded by Councilmember Gloeggler - all ayes

**MINUTES:**

**May 8, 2018**

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Gloeggler – all ayes with the exception of Councilmember Curry abstaining

**MINUTES CLOSED/EXECUTIVE SESSION:**

**May 8, 2018**

A motion to accept minutes by Councilmember Gloeggler; seconded by Councilmember Lane – all ayes with the exception of Councilmember Curry abstaining

**RESOLUTIONS:**

**121-2018 A Resolution Awarding a Contract to Lighthouse Computers, Inc. for the Provision of Goods & Services Related to the Montvale TV Access Studio**

**WHEREAS**, the Borough of Montvale is in the process of replacing and upgrading the equipment in the Montvale TV Access studio; and

**WHEREAS**, the Borough has a need to acquire certain goods and services including the Master Control used for transmission to FiOS and Cablevision as well as streaming to the Montvale Web Site, equipment used to run the Community Bulletin Board and a scheduler to run Montvale programing; and

**WHEREAS**, in addition, the vendor will be required to test and train Montvale staff on all equipment and provide archiving services for existing content, including video on demand; and

**WHEREAS**, the Borough of Montvale received two competitive quotations for these goods and services, consistent with N.J.S.A. 40A:11-6.1; and

**WHEREAS**, the lowest proposal received was from Lighthouse Computers, Inc. ("Lighthouse") dated November 14, 2017, Quote 17-0408-MON, in the total amount of \$25,085.00; and

**WHEREAS**, the Borough is satisfied that Lighthouse is capable of providing the goods and services required; and

**WHEREAS**, because the total amount of this contract exceeds the Pay-to-Play threshold, Lighthouse has completed and filed with the Borough a Business Entity disclosure form and all other appropriate documentation; and

**WHEREAS**, the Borough Chief Financial Officer has certified that funds are available and have been appropriated for this purpose.

**NOW, THEREFORE, BE IT RESOLVED** that a contract is awarded as follows:

<b>Contractor</b>	<b>Amount</b>
Lighthouse Computers, Inc. 62 18 <sup>th</sup> Avenue Sea Cliff, New York 11579	\$25,085.00, as per proposal

**BE IT FURTHER RESOLVED** that the Mayor, Borough Clerk and all other appropriate officials are hereby authorized and empowered to execute all documents necessary to effectuate the purposes of this resolution, subject to approval as to form by the Borough Attorney.

Introduced by: Councilmember Lane; seconded by Councilmember Curry - all ayes  
Councilmember Weaver asked for clarification, is this in addition to the equipment? This is awarding the contract that was originally bid, this is just one component of the original bid.

**122-2018 Award Professional Service Contract /Environmental & Surveying Services/6 & 9 Pennsylvania Avenue/ Land Donation/Maser Consulting, LLC**

**WHEREAS**, the Borough of Montvale has deemed it necessary to engage the professional services of a Phase I Environmental Site Assessment & a NJ Compliant Preliminary Assessment prior to the acceptance of a land donation of Block 1505 Lot 1 and Block 713 Lot 12 within the Borough of Montvale; and

**WHEREAS**, section N.J.S.A. 40A:11-5 of the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.) exempts such professional services from competitive bidding; and

**WHEREAS**, Maser Consulting, 200 Valley Road, Suite 400, Mt. Arlington, NJ 07856 has submitted a proposal dated May 8, 2018 to provide the environmental and surveying services which are detailed and attached to the original of this resolution, and

**WHEREAS**, the Certified Municipal Finance Officer has certified funds are available certification hereto attached to the original of this resolution.

**NOW, THEREFORE BE IT RESOLVED** by the Borough of Montvale as follows:

- 1) That the proposal for the scope of environmental and surveying services is attached to this resolution which is made part of this resolution shall be awarded to Maser Consulting.
- 2) That the following be provided: Due Diligence Environmental Services and Surveying Services;

- 3) The cost not to exceed the total amount of \$23, 500.00. Environmental Services \$14,000.00 and Surveying \$9,500.00. The Engineer shall be required to submit itemized bills and payment shall be made based upon services rendered. The rates for this work are in accordance with the hourly contractual agreement with the Borough of Montvale.

**BE IT FURTHER RESOLVED**, that a copy of this resolution be published an official newspaper of the Borough of Montvale, be on file, available for public inspection, in the office of the Municipal Clerk, Municipal Complex, 12 Mercedes Drive, Montvale, NJ 07645

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - all ayes

**123-2018 Authorize Execution Of Customer Audit Access Agreement with PSEG Direct Install Program/Willdan Energy Solutions/HVAC/Boiler/Motor & Lighting/Municipal Building 12 Mercedes Drive/Montvale Senior Community Center**

**WHEREAS**, Borough of Montvale has deemed it necessary to investigate energy savings; and

**WHEREAS**, Willdan Energy Solutions has been selected by PSE &G as a contractor for Bergen County for PSE&G's Direct Install Program; and

**WHEREAS**, this program will allow you to make energy efficiency improvements to lighting, HVAC, boilers and motors; and

**WHEREAS**, PSE&G will pay for 70% for the cost to make these improvements. The remaining 30% can be financed on the Borough of Montvale's PSE&G bill for up to 36 month at 0%.

**NOW, THEREFORE BE IT RESOLVED**, The Borough Administrator is hereby authorized to execute the Customer Audit Access Agreement in order for a free on site energy audit to be conducted at Borough of Montvale's eligible site which are The Municipal Building and the Montvale Senior Community Center.

Introduced by: Councilmember ; seconded by Councilmember - All ayes

Mr. Hipolit explained this resolution was to be adopted as a result of applying to the program, unfortunately the borough is not eligible for the program, therefore, the resolution has been withdrawn

**124-2018 Award Professional Service Contract /Environmental Services/Block 1601 Lot 1/25 West Grand Avenue/Maser Consulting, LLC**

**WHEREAS**, the Borough of Montvale has deemed it necessary to engage the professional services of an Engineer to conduct a complete Environmental Investigation prior to the Borough of Montvale's acquisition of the property located at 25 West Grand Avenue; and

**WHEREAS**, section N.J.S.A. 40A:11-5 of the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.) exempts such professional services from competitive bidding; and

**WHEREAS**, Maser Consulting, 200 Valley Road, Suite 400, Mt. Arlington, NJ 07856 has submitted a proposal dated May 21, 2018 to provide the environmental and surveying services which are detailed and attached to the original of this resolution, and

**WHEREAS**, the Certified Municipal Finance Officer has certified funds are available certification hereto attached to the original of this resolution.

**NOW, THEREFORE BE IT RESOLVED** by the Borough of Montvale as follows:

- 1) That the proposal for the scope of environmental services is attached to this resolution which is made part of this resolution shall be awarded to Maser Consulting.
- 2) That the following be provided: Environmental Services;

- 3) The cost not to exceed the total amount of \$10,000.00. The Engineer shall be required to submit itemized bills and payment shall be made based upon services rendered. The rates for this work are in accordance with the hourly contractual agreement with the Borough of Montvale.

**BE IT FURTHER RESOLVED**, that a copy of this resolution be published an official newspaper of the Borough of Montvale, be on file, available for public inspection, in the office of the Municipal Clerk, Municipal Complex, 12 Mercedes Drive, Montvale, NJ 07645

Introduced by: Councilmember Lane; seconded by Councilmember Curry - all ayes

**125-2018 A Resolution Authorizing the Connection of Block 922, Lot 21 (Also Known As 76 Huff Terrace) in Upper Saddle River to the Montvale Sanitary Sewer System**

**WHEREAS**, N.J.S.A. 40:63-68 authorizes any municipality to contract with any other municipality to have its sewage received and disposed of by such other municipality; and

**WHEREAS**, on or about January 21, 1985, a Sewer Connection Agreement (the "Agreement") was entered into by and between the Boroughs of Upper Saddle River, Montvale and Woodcliff Lake which permitted certain properties in Blocks 1205, 1206, 1207 and 1213 in Upper Saddle River to connect to the sanitary sewer systems of Montvale and Woodcliff Lake; and

**WHEREAS**, on or about March 14, 1995, the Borough of Montvale did adopt an ordinance authorizing certain additional properties located on Huff Terrace in Block 922 in the Borough of Upper Saddle River to connect to Montvale's sanitary sewer system, subject to the payment of all connection charges and fees required by the Borough of Montvale; and

**WHEREAS**, a request has been made by the owner of Block 922, Lot 21 in the Borough of Upper Saddle River, identified as 76 Huff Terrace (the "Property") to connect to the Montvale sanitary sewer system; and

**WHEREAS**, the Borough Engineer has reviewed this request and has determined that Montvale's sanitary sewer system can accept this additional flow.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Montvale that the request from the owner of the Property to connect to the Montvale sanitary sewer system is hereby approved, subject to the following terms and conditions:

1. The owner of the Property must pay all required connection charges and fees
2. The request to connect to Montvale's sanitary sewer system must also be approved by the Borough of Upper Saddle River prior to any connection being made
3. The connection shall be fully inspected and approved by the Borough of Upper Saddle River

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - all ayes

**126-2018 Authorize Refund of Recreation Programs**

**BE IT RESOLVED**, the below individuals are hereby granted refunds for:

**Summer Camp Refunds:**

**ONLINE:** (NO PURCHASE ORDER NEEDED) Chennill Proskourine **Amount:** \$395.57

**ONLINE:** (NO PURCHASE ORDER NEEDED) Kevin Cherven **Amount:** \$333.30

**ONLINE:** (NO PURCHASE ORDER NEEDED) Jetzel Camarena **Amount:** \$697.51

**Paper Registration:** (Purchase Order is Needed) Kristen Driver Address: 16 Old Chestnut Ridge Road, Montvale. **Amount:** \$320.00

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - all ayes

**127-2018 Award Lease/Purchase Police Vehicle / Hertrich Fleet Services / Ford Motor Credit Company /State Contract # A88729**

**WHEREAS**, the Mayor and Council approved 2018 Dodge Charger Pursuit Police vehicle to finance; and

**WHEREAS**, the Borough of Montvale authorized the execution of a Master Lease Purchase Agreement with Ford Motor Credit Company in the amount of \$24,942.80, for a term of 36 months; and

**WHEREAS**, payments shall be made to Ford Motor Credit Company, Municipal Finance, 1 American Road, MD7500, Dearborn, MI 48126; and

**NOW, THEREFORE, BE IT RESOLVED**, the Chief Financial Officer has certified that funds are available and certification is attached to the original of this resolution.

**NOW THEREFORE, BE IT FURTHER RESOLVED**, the Mayor and Council authorize the Borough Administrator to execute this lease agreement with the above named vendor.

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - all ayes

**128-2018 Award Lease /Purchase Police Vehicle / Municipal Equipment Enterprises (DAY) / Ford Motor Credit Company State Contract # A89938**

**WHEREAS**, the Mayor and Council approved 2019 Chevy Tahoe police vehicle to finance; and

**WHEREAS**, the Borough of Montvale authorized the execution of a Master Lease Purchase Agreement with Ford Motor Credit Company in the amount of \$38,767.83, for a term of 36 months; and

**WHEREAS**, payments shall be made to Ford Motor Credit Company, Municipal Finance, 1 American Road, MD7500, Dearborn, MI 48126; and

**NOW, THEREFORE, BE IT RESOLVED**, the Chief Financial Officer has certified that funds are available and certification is attached to the original of this resolution.

**NOW THEREFORE, BE IT FURTHER RESOLVED**, the Mayor and Council authorize the Borough Administrator to execute this lease agreement with the above named vendor.

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - all ayes

**129-2018 Authorizing Refund of Redemption of Tax Sale Certificate #08-00002 for Block 712; Lot 7; 71 Montvale Ave**

**WHEREAS**, at the Municipal Tax Sale held on December 18, 2009, a lien was sold on Block 712, Lot 7, also known as 71 Montvale Ave, for 2008 delinquent taxes; and,

**WHEREAS**, this lien, known as Tax Sale Certificate #08-00002, was sold to Frederick Uy for a 18% redemption fee; and

**WHEREAS**, the owner of record has effected redemption of Tax Sale Certificate #08-00002 in the amount of \$97,458.44 plus \$300.00 attorney fees; and

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey, that the Tax Collector be and is hereby authorized to Redeem Certificate #08-00002 and send payment of \$97,458.44 plus an additional \$300.00 for attorney fees for a total of \$97,758.44 to Frederick Uy, 50 Terrace Street, Park Ridge, NJ 07656; and

Introduced by: Councilmember Koelling; seconded by Councilmember Lane - all ayes

**130-2018 Resolution Adopting The 'Affirmative Marketing Plan' For The Borough Of Montvale**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, *et seq.*, the Borough of Montvale is required to adopt an Affirmative Marketing Plan to ensure that all affordable housing units created within the Borough of Montvale are

affirmatively marketed to low- and moderate-income households, particularly those living and/or working within Housing Region 1, the COAH Housing Region encompassing the Borough of Montvale.

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Montvale, that the Borough does hereby adopt the following Affirmative Marketing Plan:

**Affirmative Marketing Plan**

Affirmative marketing required. All affordable housing units in the Borough of Montvale shall be marketed in accordance with the provisions herein.

Applicability; developer obligations. The Borough of Montvale has a Prior Round Obligation and a Third Round Obligation covering the years from 1999-2025. This Affirmative Marketing Plan shall apply to all developments that contain or will contain low- and moderate-income units, including those that are part of the Borough's Prior Round Fair Share Plan and its current Fair Share Plan and those that may be constructed in future developments not yet anticipated by the Fair Share Plan. All developers/owners of very-low, low- and moderate-income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, and all such advertising and affirmative marketing shall be subject to approval and oversight by the designated Administrative Agent.

Purpose of Affirmative Marketing Plan. 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 or sponsor of affordable housing. The Borough of Montvale is located in COAH Housing Region 1, consisting of Bergen, Hudson, Passaic and Sussex Counties. The Affirmative Marketing Plan is intended to target those potentially-eligible persons who are least likely to apply for affordable units in Region 1. It is a continuing program that directs all marketing activities toward Region 1 and covers the entire period of the deed restriction for each restricted housing unit.

Implementation by Administrative Agent. The Affirmative Marketing Plan shall be implemented by one or more Administrative Agent(s) designated by and/or under contract to the Borough of Montvale, in accordance with Borough Code, Chapter 2B, "Affordable Housing Regulations."

The Administrative Agent shall have the following duties and responsibilities:

To income qualify very-low, low- and moderate- income households;

To place income eligible households in very-low, low- and moderate-income units upon initial occupancy;

To provide for the initial occupancy of very-low, low- and moderate-income units with income qualified households;

To continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls;

To assist with outreach to very-low, low- and moderate-income households; and  
To enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26-1, *et seq.*

The Administrative Agent shall also provide the Municipal Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C. 5:80-26-1, *et seq.*

Affirmative Marketing Plan requirements. The Affirmative Marketing Plan shall meet the following requirements:

The primary marketing shall take the form of at least one press release and/or a paid display advertisement in the below-identified newspapers. Additional advertising and publicity shall be on an "as needed" basis. The developer/owner shall disseminate all public service announcements and pay-for-display advertisements. The developer/owner shall provide proof of all publications to the Administrative Agent. All press releases and advertisements shall be approved in advance by the Administrative Agent.

All newspaper articles, announcements and requests for applications for very-low, low- and moderate-income units shall appear in *The Record*, *Jersey Journal*, *Herald News* and *New Jersey Herald*. Once at the start of the affirmative marketing process, a paid advertisement or press release shall appear in the *Star Ledger*.

The advertisement or press release shall include a description of the:

Address of the units;  
Range of prices for the units;  
Number of bedrooms of the units;  
Maximum income permitted to qualify for the units;  
Where to obtain applications;  
Business hours when applications may be obtained; and  
Application fees.

Applications shall be mailed by the Administrative Agent and Municipal Housing Liaison to prospective applicants upon request. Applications shall also be available at the developer's sales/rental office.

All applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:

Montvale Municipal Building  
Danforth Memorial Library  
Johnson Free Public Library  
Hudson County Library  
Sussex County Main Library  
Montvale Free Public Library

County of Sussex Administrative Center

Hudson County Administration Building  
Passaic County Administration Building  
Bergen County Administration Building  
Developer's Sales/Rental Offices

Community contacts; agencies; employers. The Administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organization(s) in Bergen, Hudson, Passaic and Sussex Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers identified in Attachment A, Part III, Marketing, Section 3d of COAH's ***Affirmative Fair Housing Marketing Plan for Affordable Housing in Region 1*** (attached to and hereby made part of this Resolution).

Once at the start of the affirmative marketing process, and as necessary thereafter, a flyer and preliminary application shall be sent to:

Fair Share Housing Center  
The New Jersey State Conference of the NAACP,  
The Latino Action Network,  
The Bergen County NAACP,  
Bergen Urban League and  
Bergen County Housing Coalition.

Once at the start of the affirmative marketing process, and as necessary thereafter, a flyer and preliminary application shall be sent to the administrators of each of the following agencies within the counties of Bergen, Hudson, Passaic and Sussex:

Rental Assistance Office (local office of DCA)  
Office on Aging

Once at the start of the affirmative marketing process, a flyer and preliminary application shall be sent to the chief personnel administrators of all of the major employers within the region, as listed on Attachment A, Part III, Marketing, Section 3d.

Counseling requirements. The Administrative Agent shall provide or direct qualified very-low, low- and moderate-income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services. The following is a listing of community contact person(s) and/or organizations in Bergen, Hudson, Passaic and Sussex counties that will aid in the affirmative marketing program and provide guidance and counseling services to prospective occupants of very-low, low- and moderate-income units:

Housing Resource Center – [www.njhrc.gov](http://www.njhrc.gov)

Selection process; preferences. A random selection method to select occupants of very-low, low- and moderate-income housing will be used by the Administrative Agent, in conformance with N.J.A.C. 5:80-26.16 (1). The Affirmative Marketing Plan shall provide a regional preference for very-low, low- and moderate-income households that live and/or work in COAH Housing Region 1, comprised of Bergen, Hudson, Passaic and Sussex Counties. Pursuant to the New Jersey Fair Housing Act (C.52:27D-311), a preference for very-low, low- and moderate-income veterans duly-qualified under

N.J.A.C. 54:4-8.10 may also be exercised, provided an agreement to this effect has been executed between the developer or landlord and the Borough prior to the affirmative marketing of the units.

Timing. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall

continue until all very-low, low- and moderate-income housing units are initially occupied and for as long as the affordable units remain deed restricted such that qualifying new tenants and/or purchasers continues to be necessary.

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - a roll call was taken – all ayes

Darlene Green, Borough Planner, explained this is another requirement of the settlement agreement; this institutes guidelines on how to spread the word of available affordable housing units;

**131-2018 Resolution Of Intent To Bond In The Event That There Is A Shortfall In Funding To Effectuate Certain Affordable Housing Mechanisms In Its Housing Element And Fair Share Plan**

**WHEREAS**, the Borough Council of the Borough of Montvale desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

**WHEREAS**, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in *In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201)* (“*Mt. Laurel IV*”) seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough’s obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

**WHEREAS**, after a Fairness Hearing held on January 25, 2018, by Order dated February 12, 2018, Hon. Menelaos W. Toskos, J.S.C. approved a series of settlement agreements between the Borough of Montvale, Fair Share Housing Center, and three developer-intervenors intended to establish the Borough’s affordable housing obligations; and

**WHEREAS**, in accordance with the February 12, 2018 Order, the Montvale Planning Board has adopted a Housing Element and Fair Share Plan dated May 1, 2018 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

**WHEREAS**, the Housing Element and Fair Share Plan provides for a municipally-sponsored Rehabilitation Program and a 100% affordable housing development on Summit Avenue (the DePeiro Site), in addition to other developer-funded mechanisms; and

**WHEREAS**, the Borough has adopted a Development Fee Ordinance in order to generate revenue for the Borough’s Affordable Housing Trust Fund; and

**WHEREAS**, the Borough of Montvale anticipates that monies collected and deposited in the Affordable Housing Trust Fund, along with other permitted funding sources, will be sufficient to effectuate the above-referenced mechanisms; and

**WHEREAS**, the Borough of Montvale is committed to securing judicial approval of its Housing Element and Fair Share Plan; and

**WHEREAS**, the Borough of Montvale acknowledges the COAH rules and regulations that provide that, although utilization of a mandatory development fee ordinance is an appropriate mechanism to raise money for the purpose of off-setting the expenses incurred in connection with the Housing Element and Fair Share Plan, there must be an alternative funding source in the event that insufficient monies are derived from the mandatory development fee ordinance or other resources, or the funds are not received in a timely fashion, for the purpose of effectuating the municipally-sponsored Rehabilitation Program or constructing the 100% affordable housing development known as the DePiero Site on Summit Avenue; and

**WHEREAS**, the Borough of Montvale wishes to express its commitment to cover such funding shortfalls and to fully implement the mechanisms set forth in its Housing Element and Fair Share Plan through bonding or other lawful means.

**NOW, THEREFORE BE IT RESOLVED**, by the Governing Body of the Borough of Montvale, that it does hereby confirm its intent that in the event that the projected funding from the mandatory development fee ordinance the Borough has adopted is insufficient to complete the aforementioned affordable housing mechanisms, it is the intention of the Borough Council of the Borough of Montvale to adopt appropriate bond ordinances in order to provide the requisite funding in an appropriate time frame.

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - a roll call was taken - all ayes

Darlene Green, Borough Planner explained that in the event that there is a shortfall in the housing trust fund to rehabilitate the affordable units, this will allow the borough to bond if necessary.

**132-2018 RE: Resolution Adopting The ‘Sales Operating Manual’, ‘Rental Operating Manual’ And ‘Rehabilitation Operating Manual’ For The Borough Of Montvale**

**WHEREAS**, in accordance with the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26-1, *et seq.*, the Borough of Montvale is required to adopt all program operating manuals, which set forth the procedures for administering the program(s) and their associated affordability controls for affordable housing units created within the Borough of Montvale.

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Montvale, that the Borough does hereby adopt the following attached operating manuals, subject to final approval as to form by the Borough Planner and Borough Attorney:

1. Sales Operating Manual
2. Rental Operating Manual
3. Rehabilitation Operating Manual

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - a roll call was taken - all ayes

Darlene Green, Borough Planner explained that these manuals will determine how the applicants are chosen and what criteria is used for sales and rental affordable units

**133-2018 Authorize Promotion/Administrative Assistant/Police Chief Secretary/H. McGee**

**WHEREAS**, the Borough of Montvale desires to promote Heather McGee to the position of Administrative Assistant/Police Chief Secretary in the Borough of Montvale Police Department due to the retirement of Mrs. Marly Frasciello; and

**WHEREAS**, Heather McGee meets the qualifications for this position, agrees to the terms and conditions of employment; and

**WHEREAS**, the terms and conditions of his employment shall be outlined in separate letter of employment as determined by the Police Chief and Borough Administrator; and

**NOW, THEREFORE, BE IT RESOLVED**, that the above named individual is hereby promoted to the position of Administrative Assistant/Police Chief Secretary effective September 1, 2018.

Introduced by: Councilmember Koelling; seconded by Councilmember Lane - all ayes

**BILLS:** Municipal Clerk read the Bill Report.

Motion to pay bills by Councilmember Lane; seconded by Councilmember Koelling - all ayes  
Councilmember Weaver asked about the bill for the geese, are we continuing with this?; yes we will continue with the service and the school pays a portion as well. Mr. Weaver asked about the turf inspection bill, the engineer stated this was included in the original contract; Mr. Weaver asked how much has the borough spent on the Culhane litigation, this will be looked into.

**ENGINEER'S REPORT:**

Andrew Hipolit

Report/Update

- a. Proposed 2017 Funding Allocations/Montvale/BC Open Space Trust Fund/Hearing 6-14-18/LaTrenta Field Complex/Clay Infield Removal/Synthetic Turf Replacement/\$113,538.00

This was discussed earlier in the meeting

- b. Update HVAC/Lighting Upgrades/Municipal Complex/Senior Community Center/PSE& G Direct Install Program

The application was rejected

For next meeting, the engineer will be asking for authorization to go for bid for a maintenance contract for the HVAC system.

**ATTORNEY REPORT:**

Joseph Voytus, Esq.

Report/Update

No Report

**UNFINISHED BUSINESS**

- a. Discussion items:

- Basketball Court – request to reserve specific times

Councilmember Arendacs suggested that anyone who wants to play can go to borough hall and get a badge and pay a small fee; Councilmember Gloeggler asked about the administrative costs; Councilmember Lane suggested different badges, like resident, non-resident and guest badges and pay a nominal fee for them. Councilmember Lane suggested Lisa Dent, the Recreation Director, should set the fees. A motion to authorize Mr. Voytus to prepare an ordinance by Councilmember Lane; seconded by Councilmember Arendacs – all ayes

Councilmember Gloeggler suggested moving the bleachers from the basketball court to the small field by Memorial field; Lisa Dent will be notified;

- Televising all council meetings

Councilmember Weaver mentioned that we were critical of the Board of Education to televise their meetings and we did what we did to compel them to do it and they did; in the spirit of transparency, we should televise both council meetings; after a brief discussion, more information is needed as towards the cost of having people working the studio, the coordination and the scheduling of more televised meetings.

- Planning Board Agendas

Councilmember Weaver suggested to have the complete Planning Board agenda packets added to the website and also to televise their meetings as well; after a brief discussion it was decided to have the Mr. DePinto and Ms. Hutter attend the next meeting to voice their concerns.

- Speed table on Memorial Drive

The engineer recommends two speed tables at the crosswalks; this will be included with the road program

Councilmember Weaver asked for an update on the benches for the dugouts, have they been delivered? Clerk will check; Mr. Weaver asked for an update about the bamboo, the engineer stated, he will be coordinating a day with the DPW to remove the bamboo.

**NEW BUSINESS:**

- a. Special Election Date Notice State of NJ Dept. Of Education Tuesday, October 2, 2018 Hours 2-8 p.m.

This was for informational purposes

- b. Retirement Notification Marly Frasciello MPD Chief Secretary

This was for informational purposes

- c. Request After Hour Work 6:00p.m - 2:00 a.m. T.D. Bank 33 S. Kinderkamack Rd. Montvale  
Mid June start date

Councilmembers all agreed to allow the after hours work

- d. Proposed Draft Ordinance Discussion of Prohibiting Vaping Shops & Marijuana Dispensary

This will be forwarded to the Planning Board and the Board of Health for their comments and recommendations

**COMMUNICATION CORRESPONDENCE**

None

**MEETING OPEN TO THE PUBLIC:****HEARING OF CITIZENS WHO WISH TO ADDRESS THE MAYOR AND COUNCIL:**

Upon recognition by the Mayor, the person shall proceed to the floor and give his/her name and address in an audible tone of voice for the records. Unless further time is granted by the Council, he/she shall limit his/her statement to five (5) minutes. Statements shall be addressed to the Council as a body and not to any member thereof. No person, other than the person having the floor, shall be permitted to enter into any discussion, without recognition by the Mayor.

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Koelling  
- all ayes

Bret Unger, 45 Akers Ave

Stating that the permit process is not working, asking for help, he has 5 cars in family; it's absurd to have to get a permit and then have to move all his cars to the street to have family over; the mayor stated that this was put in place as a pilot, it will be re-visited in the fall; Mr. Unger stated he has construction going on and they have nowhere to park, he also said he had a family party and was informed by the police department his guests cannot park on the street without a permit;

Geoff Gibbons

Mentioned they will be having a small move in ceremony June 8<sup>th</sup> 7pm and invited council to attend; a formal dedication will be held in the fall; Thanked councilmembers for their support with the firehouse construction.

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Koelling  
- all ayes

**ADJOURNMENT**

Motion to adjourn Public Meeting by Councilmember Lane; seconded by Councilmember Koelling  
- all ayes

Meeting was adjourned at 10:24pm

The next Workshop Session of the Mayor and Council will be held June 12, 2018 at 7:30 p.m.

**Respectfully submitted, Fran Scordo, Deputy Municipal Clerk**