

**AN ORDINANCE AMENDING CHAPTER 225 ENTITLED "LAND DEVELOPMENT"  
ARTICLE V ENTITLED "GENERAL DEVELOPMENT REGULATIONS" AND ARTICLE  
X ENTITLED "DEVELOPMENT FEE ORDINANCE OF THE BOROUGH OF SPRING  
LAKE"**

**WHEREAS**, the Borough of Spring Lake ("Borough") filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Borough of Application of the Borough of Spring Lake, Docket No. MON-L-2537-15 following the New Jersey Supreme Court's decision in Mt. Laurel IV; and

**WHEREAS**, the Borough adopted Ordinance 2019-02 implementing the Borough's affordable housing strategy set forth in its Court approved Settlement Agreement with Fair Share Housing Center; and

**WHEREAS**, the Court Special Master has recommended changes to Ordinance 2019-2 in order for the Court to enter a final judgment of compliance and repose; and

**WHEREAS**, the Borough Council find it is in the best interest of the Borough to make the requested changes of the Special Master as set forth herein to obtain immunity from builder's remedy litigation through July 1, 2025.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Spring Lake, County of Monmouth, and State of New Jersey that Chapter 225 entitled "Land Development", Article V entitled "General Development Regulations of the General Ordinances of the Borough of Spring Lake and Article X entitled "Development Fee Ordinance of Spring Lake Borough are hereby amended or supplemented as follows:

Chapter 225 (Land Development) Article V (General Development Regulations) shall be amended as follows:

§225-31.2 (1)A(4) is hereby added: **The above standards shall not apply in the Mixed-Use Affordable Housing Overlay Zone ("MUAHOZ").**

§225-31.2(1)C is hereby amended as follows:

Fractional Units. If **15 or 20** percent of the total number of units in a development results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site.

§225-31.2(1)E is hereby amended as follows:

Off-site construction. The standards for constructing affordable units off-site, shall be in accordance with the Borough's recommendations, provided that at least the same number of affordable units are provided, not more than 25% are age-restricted, **standard phasing requirements between market rate and affordable Certificates of Occupancy are adhered to**, and the affordable units provided are otherwise consistent with the terms of the Settlement Agreement.

Chapter 225(Land Development), Article X (Development Fee Ordinance of the Borough of Spring Lake) is hereby amended to recognize that COAH no longer exists, and the Superior Court of New Jersey has jurisdiction over the Borough's declaratory judgment action.

§225-49 (B) is amended to read as follows:

Pursuant to PL 2008, c.46 section 8 (52:27D-329.2) and the Statewide Non-Residential Development Fee Act, ~~COAH~~ the **Superior Court** is authorized to adopt and promulgate regulations necessary for the establishment, implementing, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans.

§225-53 (C) is hereby deleted in its entirety.

§225-56 is hereby amended as follows:

A. Once this article is adopted, such must be submitted to ~~COAH~~ within seven days of the Borough's adoption thereof. **the Superior Court for review and approval.**

B. The Borough must submit a written authorization to ~~COAH~~ **the Superior Court** from the Borough Council and the bank in which the Housing Trust Fund is located within seven days of readoption, which allows ~~COAH~~ **the Superior Court** to direct expenditure of the funds if Spring Lake is not in conformance with COAH rules on development fees.

C. No change.

D. The Borough must receive ~~COAH~~ **Superior Court** approval of its updated spending plan before disbursement of these funds prior to the grant of a third-round substantive certification **judgment of compliance and repose from the Superior Court.**

§225-56.1 is hereby amended as follows:

This article shall not be effective until approved by ~~COAH~~ pursuant to N.J.A.C. 5:96-5.1 **the Superior Court of New Jersey.**

This article shall become null and void if Spring Lake withdraws **or dismisses** its petition for substantive certification **declaratory judgment action with the Superior Court;** fails to obtain substantive certification **a final judgment of compliance and repose** from the Superior Court, allows its certifications **final judgment of compliance and repose** to lapse or its substantive certification is revoked by ~~COAH~~ **final judgment of compliance and repose from the Superior Court is vacated or dismissed .**

**BE IT FURTHER ORDAINED THAT** all ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. This Ordinance shall take effect immediately upon final passage and publication according to law.

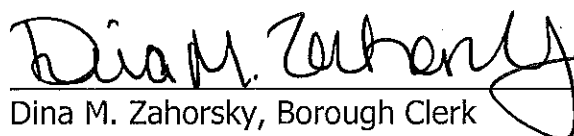
INTRODUCED: April 9, 2019

ADOPTED: April 23, 2019

APPROVED:

  
JENNIFER NAUGHTON, Mayor

Attest:

  
Dina M. Zahorsky, Borough Clerk