

BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY
ORDINANCE ~~02-17~~ _____

“ORDINANCE AMENDING CHAPTER 40 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES INCLUDING ESTABLISHING A HISTORIC PRESERVATION COMMITTEE AND ESTABLISHING SPECIAL ZONING REQUIREMENTS FOR CONTRIBUTING DWELLINGS”

BE IT ORDAINED by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 40, Land Use Administration, Article VI, “Historic Preservation,” hereby amended to read in its entirety as follows:

ARTICLE VI

Historic Preservation

§ 40-46 Intended purposes and objectives.

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

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

§ 40-47 Historic Preservation ~~Committee~~Commission.

A. Establishment.

There is hereby established within the Borough a Historic Preservation ~~Committee~~Commission, hereinafter referred to as the "~~Committee~~Commission," whose members shall serve without compensation. The Commission shall be the successor to the Historic Preservation Committee previously established by ordinance within the Borough.

B. Responsibilities.

The ~~Committee~~Commission shall have the responsibility to:

- (1) Prepare a survey of historic sites of the Borough pursuant to criteria identified in the survey report;

- ~~(2)~~ Recommend to the Council the designation of buildings, structures, sites, objects or improvements as historic landmarks;
- ~~(3)~~ Evaluate historic sites included in the community-wide survey against the criteria for the New Jersey Register of Historic Places and the National Register of Historic Places and prepare nominations for consideration of the State Historical Preservation Officer.
- ~~(2)(4)~~ Make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements and to the Council for the adoption of historic preservation provisions, standards and criteria in the land use ordinances;
- ~~(5)~~ Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- ~~(3)(6)~~ Advise the Council on any features of the annual capital budget that have historic preservation implications;
- ~~(4)(7)~~ Advise the Planning Board and Zoning Board of Adjustment on applications for development pursuant to N.J.S.A. 40:55D-110;
- ~~(8)~~ To provide written reports pursuant to N.J.S.A. 40:55D-111 on the application of the zoning ordinance provisions concerning historic preservation to proposed construction.
- ~~(5)(9)~~ Provide guidance to the Zoning Board of Adjustment or Planning Board, as applicable, when applicants seek clarification concerning applicability and eligibility under the Bulk Incentives set forth in this ordinance and on appeals from any decision to deny eligibility for the Bulk Incentives.
- ~~(6)(10)~~ Advise and assist applicants for construction permits, if requested by said applicants, in advance of a formal application concerning applicability and eligibility under the Bulk Incentives set forth in this ordinancearticle.
- ~~(11)~~ Review and render determinations regarding applications for certificates of appropriateness as set forth in this article.
- ~~(7)(12)~~ Carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough.
- ~~(8)(1)~~ Evaluate historic sites included in the community wide survey against the criteria for the New Jersey Register of Historic Places and the National Register of Historic Places and prepare nominations for consideration of the State Historical Preservation Officer.

~~C. Membership.~~

~~The Committee shall consist of seven members and two alternates who shall be appointed by the Borough Council.~~

~~D. Qualifications.~~

~~Members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology or a related discipline, to the extent that such professionals are available in the Borough. Committee membership shall include other persons who have demonstrated special interest, knowledge or experience in building design and construction, history, architecture or a related discipline. Members may reside outside of the Borough, except that no more than two members of the Committee shall be nonresidents. Alternate members shall meet the qualifications of regular voting members and shall be designated as Alternate No. 1 and Alternate No. 2 at the time of appointment.~~

C. Membership; Qualifications.

The Commission shall consist of seven regular members and two alternate members, who shall be appointed by the Council. The Council shall appoint the full membership within 60 days from the effective date of this article. At the time of appointment, members shall be designated by the following classes:

- (1) Class A - A person who is knowledgeable in building design and construction or architectural history and who may reside outside the Borough; and,
- (2) Class B - A person who is knowledgeable in, or who has demonstrated an interest in, local history and who may reside outside the Borough; and
- (3) Class C - Citizens of the Borough who shall hold no other Borough office, position or employment except for membership on the Planning Board or Zoning Board of Adjustment. Class C members should have at a minimum a demonstrated interest in history, historic preservation or a related field. Of the seven regular members, at least one member shall be appointed from each class, and a total of at least three members shall be of Classes A and B. Alternate members shall meet the qualifications of Class C members. At the time of appointment, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2".

DE. Terms.

The initial terms of office of the first regular ~~Committee~~Commission members shall be for one, two, three or four years, to be designated by the ~~Borough~~ Council in making such appointments in the following manner: one member shall be appointed for one year, two members shall be appointed for two years, two members shall be appointed for three years and two members shall be appointed for four years. The initial terms of office for the first alternate members of the ~~Committee~~Commission shall be for one year and two years, respectively. The term of each member shall expire on December 31 of the last year of each member's term. ~~All members of the initial Committee shall be appointed within 90 days of the final passage of this article.~~The terms of appointment of succeeding ~~Committee~~Commission members shall be for four years each for regular voting members and two years each for alternate members, to expire on December 31 of the last year of such succeeding member's term. Notwithstanding any other provision herein, the term of any member common to the ~~Committee~~Commission and the Planning Board or the Zoning Board of Adjustment shall be for that person's term of membership on the Planning Board or Zoning Board of Adjustment.

F. ~~Organization.~~

~~At its annual organization meeting, the Committee shall elect from its membership a Chairperson to serve as presiding officer of the Committee. The Committee shall also elect a Vice Chairperson from its membership and select a Secretary who may or may not be a member of the Committee. In lieu of a Chairperson and Vice Chairperson, the Committee may elect from its membership two Co-Chairpersons to serve as presiding officers of the Committee on a shared basis.~~

EG. Training.

A majority of Committee members shall attend a conference or training session in historic preservation or a related field. Failure to obtain adequate training may result in removal from the Committee.

FH. Vacancies.

A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only, and the appointment shall be made by the ~~Borough~~ Council.

G. Role of Alternates.

The alternate members may participate in all Commission discussions during proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

H. Liaison Person.

A member of the Council shall be designated as a liaison between the Commission and the Council. The role of such liaison person shall be informational only and such person shall possess no voting rights with regard to any action taken by the Commission.

I. Officers.

Commission shall elect from its membership a Chairperson to serve as presiding officer of the Commission. The Commission shall also elect a Vice Chairperson from its membership and shall select a Secretary who may or may not be a member of the Commission or a Borough employee.

J. Personal or financial interest.

No member of the Commission shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Unless a member resides or owns property within 200 feet of property which is the subject of an application, mere ownership or residence in a designated historic district and/or ownership of a designated historic landmark or a nondesignated property shall not be deemed a personal or financial interest.

K. Removal.

A member of the ~~Committee~~Commission may be removed by the ~~Borough~~ Council for cause; provided, however, that such member shall be entitled to a public hearing if he or she requests it.

L. Budget; Finances.

(1) The Council shall make provision in its budget and appropriate funds for the expenses of the Commission. The Commission may employ, contract for and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the Borough attorney at the rate of compensation determined by the Council, unless the Council by appropriation provides for separate legal counsel for the Commission. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the Council for the Commission's use.

(2) The Council shall establish by ordinance reasonable fees necessary to cover the expenses of administration and professional services to aid the Commission in its review of applications and development reviews. These fees are in addition to any other required under any portion of this or any other applicable Borough ordinance.

M. Records and procedures.

The ~~Committee~~Commission shall keep minutes and records of all meetings and proceedings, including but not limited to voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be matters of public record. All meetings shall comply with the Open Public Meetings Act, N.J.S.A. 10:4-7 et seq. The ~~Committee~~Commission shall adopt such other procedural rules for the conduct of its business as it deems necessary and advisable. No ~~Committee~~Commission member shall vote or participate in any meeting concerning any matter in which he or she has a direct or indirect personal interest, monetary or otherwise.

NK. Quorum.

A quorum for the transaction of business shall be four regular and/or alternate members.

§ 40-48 Survey of historic resources ~~Designation of historic landmarks and historic districts.~~

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

§ 40-49 Special zoning requirements for contributing dwellings.

A. Bulk Incentives.

In order to provide an incentive for the preservation of contributing dwellings within historic districts, the bulk requirements in the Borough zoning ordinance have been enhanced for existing contributing dwellings in historic districts that satisfy the eligibility requirements set forth in § 40-49B. It is intended that properties containing contributing dwellings that satisfy the eligibility requirements will enjoy the full benefit of the Bulk Incentives, in lieu of the corresponding standard bulk requirements, for all purposes under the Borough zoning ordinance, including any improvements to the property unrelated to the contributing dwelling (including but not limited to accessory structures, garages, swimming pools, terraces and driveways) and for the purpose of determining the scope of any variances required by the property owner.

B. Bulk Incentives eligibility requirements.

Properties containing contributing dwellings will be eligible for the Bulk Incentives when all of the following conditions are satisfied with respect to any alterations (including proposed alterations) made to the contributing dwelling after the Bulk Incentives Effective Date:

- (1) *Street-facing facades.* The alterations to any street-facing facade must be compatible with the existing or original structure, and in particular with respect to the primary street-facing facade:
 - (a) The proportion between the width and height of the alterations must be compatible with the primary street-facing facade of the existing or original structure.
 - (b) The proportions and relationships between doors and windows in the primary street-facing facade must be compatible with the existing or original structure.
 - (c) Any alterations consisting of side additions to the primary street-facing facade must have a minimum setback of 12 inches from the plane of the existing primary street-facing facade, and any associated roofline must have a minimum setback of 12 inches from the existing roof line.
 - (d) The following exceptions to the foregoing minimum setback requirements will be permitted where there is, as of the Bulk Incentives Effective Date, an existing side addition or side porch to the primary street-facing facade:
 - [1] an existing open-air porch that does not comply with the 12-inch setback requirement may be enclosed within the existing plane of the porch,
 - [2] an existing side addition that does not comply with the 12-inch setback requirement may be extended a further five feet to the side of the same plane as the existing side addition.

All of the foregoing exceptions are subject to compliance with the overall modified bulk requirements.

- (2) *Height and roof shapes.* The height of the alterations must be compatible with the existing structure. The design of the roof and any dormers must be compatible with the existing roof and dormers. Any alterations must preserve the existing or original roof ridge, roof pitch and overhangs of the existing or original structure, and new or altered dormers must be compatible with the typical styles of dormers associated with the original structure.
- (3) *Architectural details.* Architectural details and materials must be incorporated as necessary to relate the new with the old and to preserve and enhance the character-defining features of the existing or original structure. Windows may be replaced as long as they contain real or simulated divided lights, grille patterns, sizes and shapes that are compatible with the typical style of windows associated with the original structure and otherwise comply with the requirements of this subparagraph (3).
- (4) *Retention of original structure.* After completion of the alterations:
 - (a) 100% of the existing primary street-facing facade width and height must be retained intact consistent with the other requirements of this § 40-49B.
 - (b) At least 75% of the floor area of the original structure as it existed on December 31, 1938 must remain. Interior renovations and any restoration to match the original will not be deducted in determining compliance with the 75% requirement.
- (5) *Approval of exceptions to bulk incentives eligibility requirements.* An owner of a contributing dwelling may seek approval for past or future alterations made after the Bulk Incentives Effective Date that do not strictly comply with the bulk incentives eligibility requirements, provided such alterations are compatible with the existing or original structure as determined by the Zoning Board of Adjustment, upon the recommendation of the CommitteeCommission, under its authority to decide special questions under N.J.S.A. 40:55D-70(b), provided that no special notice shall be required for such application. In connection with any application for approval under this § 40-49B(5), the CommitteeCommission may request that the applicant or its architect meet with the CommitteeCommission to review the alterations that are the subject of the application and submit such documentation as the CommitteeCommission reasonably requires in order to evaluate the application. Any proposed alterations that receive final approval under this § 40-49B(5) must be commenced within one year from the date of the final approval. Upon final approval of the application and completion of the alterations, the CommitteeCommission will update any photographic records maintained in connection with this ordinance to reflect the alterations as if they had been made prior to the Bulk Incentives Effective Date. Any alterations approved under this § 40-49B(5) shall be deemed for all purposes under this ordinance, including the checklists and certifications required under § 40-49D(2), to have been made prior to the Bulk Incentives Effective Date.

C. Modified bulk requirements.

The following modified bulk requirements will apply to properties containing contributing dwellings that satisfy the eligibility requirements set forth in § 40-49B:

- (1) Limit on FAR:

<u>Zone</u>	<u>Properties Containing Contributing Dwellings</u>
R-AA	16%
R-A	21%

- (2) Limit on ILC:

<u>Zone</u>	<u>Properties Containing Contributing Dwellings</u>
R-AA	24%
R-A	30%

- (3) Minimum side setback (each side and combined total both sides):

<u>Zone</u>	<u>Properties Containing Contributing Dwellings</u>
R-AA	20 ft. minimum side setback; minimum total of 50 ft. both sides
R-A	20 ft. minimum side setback; minimum total of 50 ft. both sides

- (4) Grade Plane Calculations:

A height variance shall not be required for an addition to a contributing dwelling in the event that the addition causes a change in the grade plane calculation, provided that the addition is at least one story lower than the adjoining portion of the pre-existing structure.

- (5) Pre-existing nonconforming setbacks and height:

- (a) A property containing a contributing dwelling with a side setback of less than 20 feet as of the Bulk Incentives Effective Date that satisfies the eligibility requirements set forth in § 40-49B will still be eligible for the Bulk Incentives, and will not require a variance solely with respect to such existing nonconforming side setback, provided that (1) after the completion of the alteration or improvement, the property complies with the requirement that there be a minimum total side setback of 50 feet on both sides, and (2) the alteration does not result in an increase in the bulk of the portion of the contributing dwelling or any other structure or improvement within the existing nonconforming side setback.
- (b) A property containing a contributing dwelling with a front or rear setback of less than the applicable minimum setback set forth in the zoning ordinance as of the Bulk Incentives Effective Date that satisfies the eligibility requirements set forth in § 40-49B will still be eligible for the Bulk Incentives, and will not require a variance solely with respect to such existing nonconforming front and/or rear setback, provided that the alteration or improvement does not result in an increase in the bulk of the portion of the contributing dwelling or any other structure or improvement within the existing nonconforming front and/or rear setback.
- (c) A property containing a contributing dwelling with a height (in stories or feet) in excess of the applicable maximum height set forth in the zoning ordinance as of the Bulk Incentives Effective Date that satisfies the eligibility requirements set forth in § 40-49B will still be eligible for the Bulk Incentives, and will not require a variance solely with respect to such existing nonconforming height, provided that the alteration or improvement does not result in an increase in the portion of the contributing dwelling or any other structure or improvement that exceeds such maximum height.

D. Documentation and approval of Bulk Incentives eligibility.

- (1) Eligibility for Bulk Incentives will be determined by the Zoning Officer.
- (2) Whenever an applicant seeks Borough approval of a construction permit in reliance on the Bulk Incentives, or makes any other application to the Zoning Board of Adjustment or the Planning Board relying in whole or in part on eligibility for the Bulk Incentives, the applicant shall submit all of the following as part of the submission of the applicant's application:
 - (a) A fully completed checklist and certification in the form of Appendix A to this article from a New Jersey licensed professional architect that any alterations (including any proposed

alterations) made to the contributing dwelling after the Bulk Incentives Effective Date comply with all of the requirements of § 40-49B and that the architect is familiar with the publication entitled, "Historic Mountain Lakes – Restoration and Renovation Handbook." In order to enable access to the foregoing publication by certifying architects, the CommitteeCommission shall publish such publication on its website and make physical copies of such publication available upon written request.

- (b) In order to facilitate the Committee'sCommission's periodic review of certifications made under this § 40-49D pursuant to § 40-49F, at least one additional complete copy of the applicant's application, including the checklist and certification required under § 40-49D(2)(a), shall be delivered to the CommitteeCommission. The Borough shall modify all application checklists, including for construction permits or applications to the Zoning Board of Adjustment or the Planning Board, to include a requirement of confirmation and proof that this delivery requirement has been satisfied by the applicant.
- (3) If the Zoning Officer determines that, notwithstanding the submission of the checklist and certification required under § 40-49D(2), the applicant's application for a construction permit does not comply with the requirements of § 40-49B, the Zoning Officer shall deny the application and provide the applicant with a written statement of the grounds for such denial.
- (4) The applicant may appeal a denial of an application under § 40-49D(3) to the Zoning Board of Adjustment following the procedures under the zoning ordinance applicable to denials of zoning permits generally. The applicant may combine such appeal with an application to the Zoning Board of Adjustment for a variance with respect to the standard regulations as set forth in §§ 245-19 and 245-20.
- (5) The Planning Board or Zoning Board of Adjustment, as applicable, may also determine eligibility for Bulk Incentives in connection with any application for a subdivision involving a lot on which a contributing dwelling is located. Eligibility for Bulk Incentives shall be limited to the lot on which the contributing dwelling will be located after the subdivision and shall be determined using the procedures set forth in § 40-49D(2). Where the subject application for a subdivision does not involve any alterations to the contributing dwelling, eligibility for Bulk Incentives will be measured based on any alterations that have been made to the contributing dwelling after the Bulk Incentives Effective Date and prior to the date of the proposed subdivision.

E. Requests for clarification.

An applicant or architect may request clarification from the Zoning Board of Adjustment or Planning Board, as applicable, for a determination whether a given structure is eligible for the Bulk Incentives or whether a proposed alteration meets the eligibility requirements set forth in § 40-49B for the Bulk Incentives. The CommitteeCommission will act in an advisory capacity in such requests to the Zoning Board of Adjustment or Planning Board. The Zoning Board of Adjustment or Planning Board shall render its decision no later than 60 days after the date a request is submitted.

F. Review of certifications.

In order to evaluate the effectiveness of the certification process required under § 40-49D(2) in effectuating the purposes of this ordinance, the CommitteeCommission shall from time to time review applications that have been submitted in reliance on the Bulk Incentives and the accompanying checklists and certifications required under § 40-49D(2) and may make recommendations to the Planning Board and Borough-Council regarding potential revisions to this article based on the results of such review.

G. Records relating to alterations to contributing dwellings.

- (1) Whenever a question arises, for purposes of this article, as to the condition of a contributing dwelling on the Bulk Incentives Effective Date, the applicant and the applicant's certifying architect

shall have the burden of establishing what the condition of the contributing dwelling was on the Bulk Incentives Effective Date.

- (2) In order to facilitate establishing what the condition of contributing dwellings was on the Bulk Incentives Effective Date, all applicable Borough departments will maintain copies, which may be in hard copy or digital format, of files relating to applications for construction permits relating to contributing dwellings and make such files available to prospective applicants and their certifying architects for inspection and copying upon request. In addition, the CommitteeCommission may create and maintain a photographic record of contributing dwellings to be used in documenting the condition of contributing dwellings.

§ 40-50 Demolitions and relocations of contributing dwellings.

A. Demolition of a contributing dwelling.

- (1) For any application for a demolition permit for a contributing dwelling, the Construction Official shall issue a demolition permit provided that all of the following requirements have been fully met:

(a) Demolition Notice.

- [1] The applicant shall cause to be delivered to the CommitteeCommission a notice setting forth the following:

[A] The applicant's intent to demolish, including a description of the subject property (by block and lot as well as by physical location) and a description of the contributing dwelling to be demolished; and

[B] The anticipated time frame(s) associated with the demolition.

- [2] The notice shall include proof of payment of a non-refundable fee of \$500 to the Borough of Mountain Lakes. This fee shall cover the costs incurred by the CommitteeCommission and the Borough for review under this Ordinance.

- [3] The notice shall be delivered to the CommitteeCommission either in person at the Borough Hall or by certified mail.

- (b) Notice Period. The "Notice Period" shall commence on the date the notice is delivered to the CommitteeCommission and shall run for a period of time of 90 days.

- (c) Documentation. During the Notice Period, the applicant shall, on not less than 10 days' prior notice from the CommitteeCommission, [1] provide access for a period of four hours during the Notice Period to all interior and exterior areas of the contributing dwelling proposed for demolition to permit documentation of the contributing dwelling, or [2] provide documentation of the contributing dwelling to the CommitteeCommission in accordance with guidelines established by the CommitteeCommission. Such documentation may include photographs, floor plans, measured drawings, an archeological survey, and any other comparable form of documentation stipulated by the CommitteeCommission. Where the applicant elects to provide documentation of the contributing dwelling to the CommitteeCommission pursuant to § 40-50A(1)(c)[2], the CommitteeCommission shall send a letter to the applicant either confirming that the applicant has complied with the requirements of this § 40-50A(1)(c) or notifying the applicant of any deficiencies in the applicant's submission. If the CommitteeCommission does not send a letter to the Applicant within sixty (60) days of the submission, of the Applicant's documentation, the Applicant shall be deemed to have complied with the requirements of this § 40-50A(1)(c).

(d) Confirmation of Compliance. At the conclusion of the Notice Period, if the applicant still wishes to demolish the subject contributing dwelling, the applicant shall perform the following:

- [1] File an application for a demolition permit with the Construction Official; and
- [2] Provide the Construction Official with an affidavit of delivery relating to the notice to the ~~Committee~~Commission including a copy of the notice and proof of delivery in person at the Borough Hall or mailing by certified mail; and
- [3] Provide the Construction Official with a copy of a letter from the ~~Committee~~Commission confirming that the applicant has complied in all respects with its obligations pursuant to § 40-50A(1)(c).

(2) *Permit Fee.* The fee for an application for a demolition permit for a contributing dwelling set forth in Chapter 111 shall be increased by a defined amount over the otherwise applicable fee for non-contributing dwellings, which amount shall initially be \$500 as of the Bulk Incentives Effective Date and shall thereafter be adjusted from time to time. This increased fee shall be in addition to the non-refundable fee paid pursuant to § 40-50A(1)(a)[2].

(3) *Assignment.* No assignment of the rights granted by a demolition permit to demolish shall be permitted.

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

B. Applicability of Bulk Incentives.

(1) *Relocations.* A contributing dwelling will not be ineligible for Bulk Incentives solely because it has been relocated from its original site to another location within the boundaries of the historic district.

(2) *Replacement Dwellings.* The Bulk Incentives set forth herein will not be available for a building which replaces a demolished or relocated contributing dwelling.

§ 40-51 Designation of historic landmarks.

A. Criteria for designation.

The criteria for evaluating and designating historic landmarks shall be guided by the National Register Criteria. The Commission or any person may recommend designation of historic landmarks that are in accordance with the National Register Criteria or that possess one or more of the following attributes:

- (1) Character, interest, or value as part of the development, heritage or cultural characteristics of the Borough, State or Nation; or
- (2) Association with events that have made a significant contribution to the broad patterns of our history; or
- (3) Association with the lives of persons significant in our past; or
- (4) Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering; or
- (5) Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the Borough, State or Nation; or
- (6) Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative; or
- (7) Unique location or singular physical characteristics that make a landmark an established or familiar visual feature; or
- (8) Ability or potential ability to yield information important in prehistory or history.

B. Historic landmarks designated.

Based on the criteria set forth in § 40-51A, the following are designated as historic landmarks pursuant to this ordinance.

- (1) The Station, which is located at 99 Midvale Road (Block 128, Lot 22 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- (2) The Lake Drive School, which is located at 10 Lake Drive (Block 100, Lot 5 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- (3) Briarcliff School, which is located at 93 Briarcliff Road (Block 87, Lot 1 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- (4) The Community Church, which is located at 48 Briarcliff Road (Block 82, Lot 7 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- (5) St. Peter's Episcopal Church, which is located at 215 Boulevard (Block 55, Lot 58 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- (6) The Mountain Lakes Club, which is located at 18 Lake Drive (Block 100, Lot 1 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- (7) The Midvale Stores Buildings (The Market), which are located at 44-50 Midvale Road (Block 106, Lots 6, 8 and 9 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.

- (8) The Masonic Lodge Building, which is located at 280 Boulevard (Block 100, Lot 31.02 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
 - (9) The Grimes House, which is located at 4 Craven Road (Block 118, Lot 4.01 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
 - (10) The gateways at the entrance to the Borough at the Boonton Township border on the Boulevard at Fanny Road (Block 62, Lot 20.01 on the Borough Tax Map), and at 84 and 85 Crane Road (Block 6, Lot 6 and Block 115, Lot 20.01 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
 - (11) The Esplanade, which is located on Romaine Road across from the Station (identified as "Esplanade" and located between Blocks 98 and 99 on the Borough Tax Map), shall be designated a historic landmark under this Ordinance.
- C. Within 30 days of the effective date of any ordinance designating a historic landmark under this § 40-51, the Borough Clerk will send a notice of such designation to the property owner and the Construction Office, and shall cause such notice, in recordable form, to be recorded with the property records for such property in the Registry Department of the Morris County Clerk's Office. Any failure to record such notice shall not affect the validity of the designation or applicability of the requirements of this ordinance to any historic landmark.

§ 40-52 Referral of applications involving historic landmarks.

- A. Pursuant to N.J.S.A. 40:55D-110, the Planning Board and Zoning Board of Adjustment shall refer to the Commission every application for development or application for a certificate of appropriateness submitted to either board involving historic landmarks. This referral shall be made when the application is deemed complete or is scheduled for a hearing, whichever occurs sooner. The Planning Board or Zoning Board of Adjustment will forward to the Commission a complete set of all application materials. The Commission shall be allowed at least 14 days from the day it receives a complete application to prepare its recommendations to either the Planning Board or Zoning Board of Adjustment. Said recommendations shall be in the form of a written report which will be forwarded to the appropriate board, and may also be conveyed through its delegation of one of its members to testify orally at the hearing on the application.
- B. On all matters referred to the Commission which require approval by the Planning Board or Zoning Board of Adjustment, the decision of the Commission shall be a recommendation only. In reviewing applications for development, the Commission may comment on any of the zoning and land use considerations which are relevant to the application. The Planning Board or Zoning Board of Adjustment, as applicable, shall consider the testimony and/or written report(s) presented and may disapprove or change any of the recommendations made by the Commission and shall record in its minutes the reasons for not following such recommendations.

§ 40-53 Certificate of appropriateness.

A. When required.

A certificate of appropriateness issued by the Planning Board shall be required before any work is commenced on any historic landmark, whether or not a permit is required for such work, including but not limited to the following:

- (1) Changing the exterior appearance of any building, structure, site, object or improvement by addition, reconstruction, alteration or replacement, including the replacement of windows and doors, except for the activities described in § 40-53B below.

- (2) Demolition of any building, structure, site, object or improvement.
- (3) Relocation of a principal or accessory building, structure, site, object or improvement.
- (4) Any addition to or new construction of a principal or accessory building, structure, site, object or improvement.

B. When not required.

A certificate of appropriateness shall not be required:

- (1) before a permit is issued by the Construction Official for changes to the interior of a structure,
- (2) for exterior or interior painting of existing structures,
- (3) for changing the exterior appearance of any building, structure, site, object or improvement solely if all of the changes to the exterior appearance are not visible from any street, or
- (4) if, in the opinion of the Planning Board, the work contemplated constitutes "ordinary maintenance and repair" as defined by this chapter. In such cases, and if a permit is required for the proposed work, the Planning Board shall promptly notify the Construction Official that a certificate of appropriateness is not required as a prerequisite to the issuance of the permit.

C. Procedures.

- (1) Except for the circumstances described in § 40-53B, no work shall be performed on any historic landmark until either a certificate of appropriateness has been issued by the Planning Board for such work or until a determination has been made by the Planning Board that no certificate of appropriateness is necessary for such work due to the fact that the proposed work constitutes "ordinary maintenance and repair" pursuant to § 40-53B(4) above.
- (2) All applicants for a certificate of appropriateness, or for a determination of nonnecessity pursuant to § 40-53B(4) above, shall complete an application form. Application forms shall be made available in the office of the Construction Official. Completed applications shall be filed with the Construction Official, who shall then forward the application package promptly to the Planning Board.
- (3) Each application for a certificate of appropriateness or for a determination of nonnecessity shall be accompanied by sketches, drawings, photographs, descriptions or other information to show the proposed alterations, additions, changes or new construction. Applications for demolition shall include current and historical photographs of the interior and exterior of the building. The Planning Board may require the subsequent submission of such additional materials as it reasonably requires to make an informed decision.
- (4) The Construction Official shall forward a copy of all permit applications dealing with historic landmarks to the Planning Board prior to issuance of the requested permit, except where the permit relates to the type(s) of work described in § 40-53B(1) and (2) above.
- (5) The Planning Board shall render a decision on each application for a certificate of appropriateness, or for a determination of non-necessity pursuant to § 40-53B(4) above, and submit its report to the Construction Official within 45 days of referral of same by the Construction Official. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Planning Board.

D. Informational meetings.

Persons considering action that requires a certificate of appropriateness are encouraged to request an informal informational meeting with the Planning Board and/or its chairman prior to submitting a formal application for a certificate of appropriateness or for a determination of non-necessity pursuant to § 40-53B(4) above. The Commission and/or its chairman may also participate in such meetings on request by the applicant or the Planning Board. Requests for such informational meetings can be made to the Planning Board secretary. The Planning Board and/or its chairman shall hold such informational meetings within 30 days of receipt of such request. The purpose of an informational meeting is to review the design issues and standards of appropriateness and the procedures for obtaining a certificate of appropriateness or a determination of non-necessity pursuant to § 40-53B(4) above.

E. Application review.

- (1) The Planning Board shall hold a public hearing on all applications for certificates of appropriateness. No public hearing shall be required in order for the Planning Board to render a determination of non-necessity pursuant to § 40-53B(4) above.
- (2) Prior to holding a public hearing on an application for a certificate of appropriateness, the Planning Board shall, in addition to complying with the requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq., notify the applicant in writing at least 20 days prior to the hearing by personal service or certified mail setting forth the time, date and place of the hearing.
- (3) An applicant for a certificate of appropriateness shall not be required to appear or to be represented at the hearing in order for the Planning Board to consider the application for a certificate of appropriateness, and the Planning Board may take action in the absence of the applicant.
- (4) At the hearing, the Planning Board shall allow all persons the opportunity to be heard concerning the issuance of a certificate of appropriateness for the proposed work.
- (5) After conducting the public hearing, the Planning Board shall render a determination on the application. All determinations shall be in writing with an explanation of the reasons for the decision, and shall be delivered promptly to the Construction Official. The Planning Board shall grant a certificate of appropriateness to the applicant if it finds the application appropriate to the historic landmark and in conformity with the standards and criteria set forth in § 40-54. The Planning Board may issue a certificate of appropriateness subject to certain condition(s), which shall be set forth in detail in the Planning Board's written decision. The Planning Board shall deny the issuance of a certificate of appropriateness if it finds the application inappropriate to the historic landmark and/or not in conformity with the said standards and criteria. The Planning Board's denial of a certificate of appropriateness shall be deemed to prohibit the applicant from undertaking the work applied for, and shall preclude the issuance of any required permit for the said work by the Construction Official. Upon receipt of the Planning Board's written determination, the Construction Official shall notify the applicant of said determination in writing within five days thereof.
- (6) Failure of the Planning Board to render its written determination to the Construction Official within the 45 day period referenced above shall be deemed to constitute a determination in favor of the issuance of a certificate of appropriateness for the proposed work and without conditions. In the event that the applicant has consented to an extension of time to consider the application, the Construction Official shall be notified of said extension and no certificate of appropriateness or permit shall be issued for the proposed work until a determination has been rendered by the Planning Board during the extension period.
- (7) Appeals from determinations of the Construction Official pursuant to the Planning Board's decision may be made by the applicant to the Zoning Board of Adjustment, according to N.J.S.A. 40:55D-70a. Nothing herein shall be deemed to limit the right of judicial review of the action after an appeal is concluded by the Zoning Board of Adjustment. The appellant shall pay all costs for

copies of any transcript(s) required for appeal. If, in the case of an appeal made pursuant to this paragraph, the Zoning Board of Adjustment determines there is an error in any order, requirement, decision or refusal made by the Construction Official pursuant to a determination rendered by the Commission, the Zoning Board of Adjustment shall, in writing, include the reasons for its determination in the findings of its decision thereon.

- (8) The owner shall post the certificate of appropriateness on a conspicuous spot on the exterior of the designated property visible to the public during the entire process of work.
- (9) When a certificate of appropriateness has been issued, the Construction Official or his appointee shall, from time to time, inspect the work approved by such certificate and shall regularly report to the Planning Board the results of such inspections, listing all work inspected and reporting any work not in accordance with such certificate.
- (10) A certificate of appropriateness shall be valid for a period of two years from date of issue unless reasonable extensions are requested by the applicant or the Planning Board.
- (11) The performance of unauthorized activities shall be deemed to be a violation of this chapter and may subject the responsible parties to sanctions imposed hereunder.

F. Minor applications.

The chairman of the Planning Board, or other designated member(s) of the Planning Board acting on the chairman's behalf, may review applications for minor work (minor applications) without holding a public hearing. If the chairman finds the application appropriate, he/she may act in place of the full Planning Board without the necessity of a public hearing and is authorized to issue a certificate of appropriateness to the Construction Official for said minor work. The Construction Official shall then authorize the applicant to proceed and issue any required permit associated therewith. If the chairman does not find the application appropriate, the application shall be scheduled for a public hearing before the full Planning Board.

G. Emergency procedures.

- (1) When a historic landmark requires immediate repair to preserve its continued habitability and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with applicable construction codes immediately upon approval of the Construction Official, who shall certify that a bona fide emergency of the type referenced herein exists, without first obtaining a certificate of appropriateness from the Planning Board. Under such circumstances, the repairs performed shall be only such as are necessary to preserve the continued habitability of the building or structure and/or the health and safety of its occupants or others. Where feasible, temporary measures to prevent further damage shall be used, provided these measures are reversible without damage to the building or structure.
- (2) Simultaneously with the commencement of the emergency work, the property owner shall make a request for a certificate of appropriateness from the Planning Board memorializing the approval for said emergency work. This request shall be made through the Construction Official pursuant to the procedures set forth in § 40-53C above.
- (3) It should be noted that the procedures outlined in this section should be strictly limited to those circumstances which, in the opinion of the Construction Official, rise to the level of a bona fide emergency of the type referenced above. No work in addition to the emergency repairs shall be performed until an appropriate request for approval has been granted by the Construction Official and Commission pursuant to the procedures set forth in § 40-53E above.

H. Requirement of obtaining certificates of appropriateness for government actions.

- (1) It is recognized that the intent and purposes of this chapter would not be fully served if the Borough and other governmental agencies were to control the actions of others but fail to apply similar constraints to itself. The Borough of Mountain Lakes, when it plans to undertake any work on any Borough owned historic landmark, may submit such plans to the Commission and shall receive an advisory report on the appropriateness of those plans before undertaking the work.
- (2) In those circumstances where the Borough cannot require compliance, as in certain cases involving the county, State and Federal governments, the Borough most strongly urges the voluntary cooperation of such agencies in seeking a certificate of appropriateness and hereby authorizes the Planning Board to consider such requests and applications. This does not relieve the property owner from complying with applicable State and Federal regulations regarding historic preservation.

§ 40-54 Standards and criteria.

- A. The purpose of this section is to provide uniform standards and criteria for the regulation of historic landmarks for use by the Planning Board. All projects requiring a certificate of appropriateness and all applications for development on historic landmarks shall be governed by the principles of the Secretary of the Interior's Standards for Rehabilitation (as contained within the Secretary of the Interior's Standards) and by the Secretary of the Interior's Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings.
- B. In reviewing applications for certificates of appropriateness, the Planning Board may consider the siting, design, arrangement, texture, details, scale, shape, materials, finish and relationship to streetscape and/or landscape of the proposed work and the relationship of those characteristics to the historical significance of the historic landmark.
- C. Criteria for Review. In its review of historic landmarks, the Planning Board shall give consideration to certain criteria, including but not limited to the following:
 - (1) The historical value of the landscape or streetscape.
 - (2) The historical value of a building, structure, site, object or improvement and its relationship to property of the surrounding area.
 - (3) The general compatibility of the proposed use to the historical value of the surrounding area.
 - (4) The general compatibility of the exterior design, arrangement, texture and materials proposed to be used with the historical value of the surrounding area. In carrying out its review under these guidelines, the following criteria shall be utilized:
 - (a) All exterior elevations, including the roof, must be maintained and new construction must be compatible with existing structures, districts and surrounding areas.
 - (b) Inkind or similarly compatible building materials must be utilized.

§ 40-55 Demolitions and relocations of historic landmarks.

A. Criteria.

In regard to an application to demolish or relocate an historic landmark, the following matters shall be considered:

- (1) Its current and potential use for those purposes currently permitted by the zoning ordinance or for the use proposed.
- (2) The probable impact of its removal upon the ambiance of the historic landmark or streetscape.

- (3) The structural soundness and integrity of the building, structure, site, object or improvement and the economic feasibility of restoring or rehabilitating same so as to comply with the requirements of the applicable construction codes.
- (4) The compelling reasons for not retaining the building, structure, site, object or improvement at its present location, the proximity of the proposed new location and its accessibility to residents of the Borough, and the probability of significant damage to the building, structure, site, object or improvement as a result of the relocation.
- (5) The compatibility, nature and character of the current and the proposed surrounding areas as they relate to the intent and purposes of this article and whether the proposed new location is visually compatible in accordance with the standards set forth herein.

B. Procedure.

(1) *Where Demolition Disapproved.* In the event that the Planning Board disapproves an application for a certificate of appropriateness to demolish an historic landmark, the owner shall, nevertheless, as a matter of right, be entitled to raze or demolish same provided that all of the following requirements have been fully met:

- (a) Appeal to Zoning Board of Adjustment. The owner has applied for the necessary certificate of appropriateness and has received notice of the Planning Board's denial of same from the Construction Official and has appealed to the Zoning Board of Adjustment, which has affirmed such denial.
- (b) Offer to for Fair Market Value. The owner has prior to seeking demolition for a period of at least one year (the "offer period"), and at a price reasonably related to its fair market value, made a bona fide offer to sell such building, structure, site, object or improvement and the land pertaining thereto to any person, entity, organization, government or political subdivision thereof which gives reasonable assurance that it is willing to preserve the building, structure, site, object or improvement and the land pertaining thereto.
- (c) Demolition Notice Posted and Publication.

[1] Notice of any proposed demolition shall be posted on the exterior premises of the building, structure, site, object or improvement throughout the Notice Period in a location such that it is clearly readable. In addition, the applicant shall cause to be published in the official newspaper of the Borough a notice setting forth the following:

- [A] The applicant's intent to demolish, including a description of the subject property (by block and lot as well as by physical location) and a description of the building, structure, site, object or improvement to be demolished; and
- [B] The applicant's proposed use of the property following demolition; and
- [C] The anticipated time frame(s) associated with the demolition; and
- [D] A statement indicating that the applicant shall consider any and all bona fide offers to sell the property to any person who wishes to preserve the building, structure, site, object or improvement; and
- [E] The applicant's name and address, along with a telephone number where the applicant may be reached during normal business hours by any interested person who wishes to discuss the proposed demolition and/or to make an offer to purchase the property as set forth above.

[2] The notice shall be published as follows:

- [A] At least once within the first ten days of the Notice Period; and
- [B] At least once within the period of time that is not less than ten nor more than 15 days prior to the expiration of the Notice Period; and

- [C] At least once each 20 days between the above first and last notifications.
- [3] At the conclusion of the Notice Period, if the applicant still wishes to demolish the subject building, structure, site, object or improvement, it shall, prior to performing the demolition, perform the following:
- [A] Advise the Commission and the Planning Board in writing of its intention to proceed with the demolition; and
- [B] Certify in writing to its compliance with the provisions of paragraph (1)(b) above relating to the one-year offer period; and
- [C] Provide the Commission and the Planning Board with a copy of the notice that appeared in the official newspaper of the Borough and a listing of all dates on which the said notice appeared in the newspaper; and
- [D] Advise the Commission and the Planning Board in writing as to whether any interested persons submitted an offer or offers to purchase the property, whether during the one-year "offer period" or following the newspaper noticing referenced above, and set forth the terms and conditions relating to said offer(s) and the results of any negotiations pertaining thereto; and
- [E] File copies of the affidavits of publication relating to the newspaper noticing with the commission.
- (d) Notice Period. The period of time during which notice must be given in the manner hereinbefore set forth shall be known as the "Notice Period" which shall commence on the tenth day following the date of the notice of denial of the appeal from the Zoning Board of Adjustment and such Notice Period shall run for a period of time of 60 days.
- (2) *Alternatives to demolition.* During the Notice Period, the Commission shall consult with the Planning Board, the Council, the New Jersey Department of Environmental Protection or other similarly qualified organizations to ascertain how the Borough may preserve the premises to be demolished. The Commission shall be empowered to assist the owner in developing plans to preserve the building, structure, object or site when the moving or demolition thereof would be a loss to the Borough. The Commission shall be empowered to negotiate with the applicant to see if an alternative to demolition can be found and may require the applicant to prepare a financial analysis which may include any or all of the following:
- (a) Amount paid for the property, date of purchase and the name of the party from whom purchased, including a description of the relationship, whether business and/or familial, if any, between the owner and the person from whom the property was purchased.
- (b) Assessed value of the land and improvements thereon according to the most recent assessment.
- (c) For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.
- (d) All appraisals obtained by the owner in connection with his or her purchase or financing of the property or during his or her ownership of the property.
- (e) Bona fide offers for the property for sale or rent, price asked and offers received, if any.
- (f) Any consideration given by the owner as to profitable, adaptive uses for the property.
- (3) *Assignment.* No assignment of the rights granted by a certificate of appropriateness to demolish shall be permitted.
- (4) *Expiration of Approval.*

- (a) In cases where demolition is permitted, the certificate of appropriateness shall be valid for one year from the date of Planning Board approval of the application. The one year period shall not be extended.
 - (b) At the time of issuance of the certificate of appropriateness to demolish, the Construction Official shall designate the period of time (within the one year approval period) within which demolition must be completed.
- (5) Approval After Change of Circumstances. The Planning Board may at any time during such Notice Period, if a significant change in circumstances occurs, approve a certificate of appropriateness to demolish, in which event, a permit from the Construction Official shall be issued within ten days thereafter.

§ 40-56 Enforcement.

It shall be the duty of all Borough officials reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of appropriateness. If it should, the officer shall inform both the Construction Official and the applicant, as well as the Commission and the Planning Board.

§ 40-57 Violations: penalties and injunctive relief.

A. Violations.

- (1) If any person shall undertake any activity vis-a-vis an historic landmark without first having obtained and posted a certificate of appropriateness as provided in this article, such person shall be deemed to be in violation of this article.
- (2) Upon learning of the violation, the Construction Official shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail.
- (3) If the owner cannot be personally served within the municipality with said notice, a copy thereof shall be posted on the site in question and a copy shall be sent by certified mail, return receipt requested, to the owner at his or her last known address as it appears on the municipal tax rolls.
- (4) Within ten days of receipt of the notice of violation, the violator shall be required to file an application for a certificate of appropriateness in the same manner as prescribed pursuant to § 40-52 of this article, and the notice shall advise the violator of such.
- (5) Upon receipt of the violator's application, the commission shall conduct a review of the said application and hold a public hearing in the same manner as prescribed for regular applications pursuant to § 40-52 of this article.
- (6) Upon the violator's filing of an application for a certificate of appropriateness, the imposition of all enforcement action on behalf of the Borough shall be stayed until such time as:
 - (a) The Planning Board has rendered a decision on the violator's application and the Construction Official has served notice thereof upon the applicant; and
 - (b) The violation is still deemed to be in existence; and
 - (c) No further appeal of the decision of the Planning Board and Construction Official relating to the said application is pending before the Zoning Board of Adjustment or any court; and
 - (d) All appeal periods relating to the said application have expired.
- (7) If the Planning Board grants a certificate of appropriateness to the violator for the unauthorized work, then the violator shall no longer be deemed to be in violation of this article. If the Planning Board grants a certificate of appropriateness to the violator subject to certain conditions, then the violator shall be deemed to have cured the violation only upon its timely satisfaction of the said conditions in accordance with the requirements of the Planning Board. If the Planning Board denies a certificate

of appropriateness to the violator for the unauthorized work, then the violation shall still exist and the violator shall be subject to appropriate enforcement action as prescribed by this article.

(8) In the event that the violator fails to file a timely application for a certificate of appropriateness after having been served with a notice of violation as set forth above, or in the event that there is no longer any stay of enforcement activity in effect as set forth above and the violation is still deemed to be in existence, then the Construction Official shall cause to be issued a summons and complaint, returnable in the Borough of Mountain Lakes Municipal Court, charging violation of this article. Each separate day that the violation exists shall be deemed to be a new and separate violation of this article.

B. Penalties designated.

Any person who commits a violation of this article shall, in the discretion of the municipal court judge, be subject to a fine not to exceed one thousand (\$1,000.00) dollars per violation or imprisonment for a period not to exceed 90 days, or both, and/or be required to correct, abate and/or restore the premises or property to its previous condition.

C. Injunctive Relief.

In the event that any person becomes aware that any type of activity is about to occur which would permanently and adversely change an historic landmark, such as demolition or removal, without the issuance of a certificate of appropriateness by the commission, that person shall immediately notify the Construction Official, who shall then immediately contact the Borough attorney and the chairman of the Planning Board so that an application to the Superior Court of New Jersey may be made for such injunctive relief as is necessary to prevent the activity.

§ 40-58 General.

A. Other requirements unaffected.

The requirements of this article shall be considered to be in addition to and in no case shall they be interpreted as a substitute for any other approval, permit or other action as otherwise provided for. No provision of this article shall be interpreted to void, invalidate or alter the provisions of any deed included or designed to further the historic preservation or other protection of any property.

B. Powers of other boards and committees.

No duties or powers of the ~~Committee~~Commission shall supersede or infringe on the powers of other Borough boards and committees.

Section 2. Chapter 40, Land Use Administration, Section 40-3, entitled “Definitions”, is hereby amended to include the following additional definitions:

ADDITION -- An extension or increase in the size, floor area or height of any building, structure, site, object or improvement.

BULK INCENTIVES – The modified bulk zoning requirements applicable to contributing dwellings satisfying the eligibility requirements set forth in § 40-49.

BULK INCENTIVES EFFECTIVE DATE – With respect to any contributing dwelling, shall mean, (a) for all contributing dwellings that are described as a “Hapgood” or “Belhall” structure in the National Register of Historic Places Registration Form for the Mountain Lakes Historic District, August 11, 2012, and (b) for all other contributing dwellings, April 1, 2017.

CERTIFICATE OF APPROPRIATENESS – That document issued by the Planning Board which is required before any work may be commenced on any historic landmark.

COMMITTEECOMMISSION – The Historic Preservation ~~Committee~~Commission established pursuant to the provisions of this article.

COMPATIBLE – When used in connection with a component of an alteration, shall mean the component is consistent or in keeping with the original structure or the existing structure. In order to be compatible, a component of an alteration is not required to be identical to components of the original structure or the existing structure. Being compatible includes both restoration and replacement of the original structural component.

CONTRIBUTING DWELLING – (1) One of the dwellings that (a) were constructed on or before December 31, 1938, (b) are listed as “contributing buildings” within the Mountain Lakes Historic District in the National Register of Historic Places Registration Form for the Mountain Lakes Historic District, and (c) have not been demolished; and (2) such other structures as are designated as “contributing dwellings” by ordinance upon the recommendation of the ~~Committee~~Commission and the Planning Board.

The ~~Committee~~Commission shall publish a listing of contributing dwellings on its website.

DEMOLITION or DEMOLISH – The razing, dismantling or destruction, whether entirely or in significant part, of any designated building, structure, site, object or improvement.

EXISTING– When used in connection with a structure or a component or feature of a structure, refers to such structure as it existed on the Bulk Incentives Effective Date, including alterations deemed to have been made prior to the Bulk Incentives Effective Date pursuant to an approval granted under § 40-49B(5).

HISTORIC – Having historical, cultural, architectural, archaeological, economic, social or other significance as defined by the provisions of this chapter.

HISTORICAL – Of, relating to, or having the character of history.

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

HISTORIC LANDMARK – Any building, structure, site, object or improvement which is designated as a historic landmark under § 40-51.

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

IMPROVEMENT – A building or other structure, or any work constituting a man-made alteration of, or addition to, any building, structure, site or object.

LANDSCAPE – The visual character of the land, including but not limited to architecture, building setbacks and height, fences, hedgerows, plantings and views.

MINOR APPLICATION – Any application for a certificate of appropriateness which:

- a. Does not involve demolition, relocation or removal of a historic landmark;
- b. Does not involve an addition to a historic landmark;
- c. Is a request for approval of fences, signs, lighting, paving or streetscape work which, in the opinion of the chairman of the Planning Board, will not substantially affect the characteristics of the historic landmark;
- d. Is a request for a field change for a certificate of appropriateness which has already been issued and which meets the criteria of paragraph c. above.

NATIONAL REGISTER CRITERIA – The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places, as set forth in 36 C.F.R. 60.4, et seq.

ORDINARY MAINTENANCE AND REPAIR – The repair of any deterioration, wear or damage to a structure or any part thereof in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage with inkind material and quality workmanship.

ORIGINAL– When used in connection with a structure or a component or feature of a structure, refers to such structure as it existed when originally constructed.

PRIMARY STREET-FACING FACADE – For a contributing dwelling that has only one street-facing façade, the primary street-facing façade is such street-facing façade. For a contributing dwelling that has more than one street-facing façade, the primary street-facing façade will be the street-facing façade of the contributing dwelling with the greatest width, with the following exceptions: (i) if the contributing dwelling has a formal (or “front”) entrance door in the street-facing façade facing the street that is also the street of the contributing dwelling’s street address, the primary street-facing façade is the street-facing façade containing such entrance door, and (ii) the owner of a contributing dwelling with multiple street facing facades may designate another street-facing façade as the primary street-facing façade for that contributing dwelling provided that the ~~Committee~~Commission determines that such designation will better preserve the historic integrity of the contributing dwelling or the historic streetscape.

RECONSTRUCTION – The act or process of reproducing, by means of new construction, the form, features and detailing of a non-surviving building, structure, site, object, improvement or landscape for the purpose of

replicating its appearance at a specific period of time and in its historic location when documentary and physical evidence is available.

REPLACE or REPLACEMENT – The act or process of replicating any exterior architectural feature that is used to substitute for a deteriorated or extensively damaged architectural feature.

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

SECRETARY OF THE INTERIOR'S STANDARDS – The publication issued by the U.S. Department of the Interior, National Park Service, entitled: "The Secretary of the Interior's Standards for the Treatment of Historic Properties," 36 C.F.R. 68, issued in 1992 and revised and supplemented from time to time.

STREET-FACING FACADE – The principal facade of a contributing dwelling that (i) directly faces a street which abuts the property on which the contributing dwelling is located and which is actively used as a roadway for vehicular traffic by the public, and (ii) is at an angle of zero to 45 degrees to the portion of such street that abuts the property. Contributing dwellings located on corner lots and "through lots" shall typically be considered to have two street-facing facades.

STREETSCAPE – The visual character of the street including, but not limited to, the architecture, building setbacks and height, fences, storefronts, signs, lighting, parking areas, materials, sidewalks, curbing and landscaping.

VIEW – The view by the public of a building, structure, site, object, improvement or landscape from any point on a street, road or walkway which is used as a public thoroughfare, either vehicular and/or pedestrian.

Section 3. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof. Each of the provisions of this Ordinance relating to Bulk Incentives are inseparable from the remainder or any portion thereof, and if any section or provision of this Ordinance relating to Bulk Incentives, including the limitations on eligibility for Bulk Incentives, shall be held invalid in any Court of competent jurisdiction, then all provisions of this Ordinance relating to Bulk Incentives shall be invalid.

Section 4. All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 5. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

- 5.1 _____ Check here if the following statement is applicable. [If this item has been checked, you may skip Questions 6 through 9 and continue with Question 10 below.]
- 5.2 _____ Check here if the following statement is not applicable, and continue with the following questions.

No **alterations** have been (or are proposed to be) made to any **street-facing facade** of the **contributing dwelling** (including side additions or enclosures or extensions of side porches) after the **Bulk Incentives Effective Date**.

6. _____ The **alterations** to any **street-facing facade** are **compatible** with the **existing** or **original structure**. (§ 40-49B(1))
7. _____ The proportion between the width and height of the **alterations** is **compatible** with the **primary street-facing facade** of the **existing** or **original structure**. (§ 40-49B(1)(a))
8. _____ The proportions and relationships between doors and windows in the **primary street-facing facade** are **compatible** with the **existing** or **original structure**. (§ 40-49B(1)(b))
9. _____ (If the following is applicable, check here and confirm below that one of the requirements below applies. If not applicable, please write "NA.")

The **alterations** include side additions to the **primary street-facing facade**.

- 9.1 _____ Any **alterations** consisting of side additions to the **primary street-facing facade** have a minimum setback of 12 inches from the plane of the **existing primary street-facing facade**, and any associated roofline will have a minimum setback of 12 inches from the **existing** roof line. (§ 40-49B(1)(c))
- 9.2 _____ (If the following is applicable, check here and confirm below that one of the requirements below applies. If not applicable, please write "NA.")

There was, on the **Bulk Incentives Effective Date**, an **existing** side addition or side porch to the **primary street-facing facade** (§ 40-49B(1)(d)):

- 9.2.1 _____ an open-air porch that existed on the **Bulk Incentives Effective Date** and does not comply with the 12-inch setback requirement has been (or will be) enclosed within the **existing** plane of the porch, and overall bulk requirements will be complied with. (§ 40-49B(1)(d)[1])
- 9.2.2 _____ a side addition that existed on the **Bulk Incentives Effective Date** and does not comply with the 12-inch setback requirement has been (or will be) extended no more than a further five feet to the side of the same plane as the **existing** side addition, and overall bulk requirements will be complied with. (§ 40-49B(1)(d)[2])

10. _____ The height of the **alterations** is **compatible** with the **existing structure**. (§ 40-49B(2))
11. _____ The design of the roof and any dormers will be **compatible** with the **existing** roof and dormers. (§ 40-49B(2))
12. _____ The **alterations** preserve the **existing** or **original** roof ridge, roof pitch and overhangs of the **existing** or **original structure**. (§ 40-49B(2))

13. _____ (If the following is applicable, check here and confirm that the requirement below applies. If not applicable, please write "NA.")

Alterations include new or altered dormers.

13.1 _____ Any new or altered dormers are **compatible** with the typical styles of dormers associated with the **original structure**. (§ 40-49B(2))

14. _____ Architectural details and materials are incorporated as necessary to relate the new with the old and to preserve and enhance the character-defining features of the **existing** or **original structure**. (§ 40-49B(3))

15. _____ (If the following is applicable, check here and confirm that the requirement below applies. If not applicable, please write "NA.")

Windows will be **replaced** or have been **replaced** since the **Bulk Incentives Effective Date**.

15.1 _____ The **replacement** windows contain real or simulated divided lights, grille patterns, sizes and shapes that are **compatible** with the typical styles of windows associated with the **original structure** and otherwise comply with the requirements of this subparagraph (3). (§ 40-49B(3))

16. _____ After completion of the **alterations**, 100% of the **existing primary street-facing facade** width and height is retained intact consistent with the other requirements of this Checklist and Certification. (§ 40-49B(4)(a))

17. _____ After completion of the **alterations**, at least 75% of the floor area of the **original structure** as it existed on December 31, 1938 remains. (Interior renovations and any **restoration** to match the **original** will not be deducted in determining compliance with the 75% requirement.) (§ 40-49B(4)(b))

18. _____ I have read and am familiar with the publication entitled, "Historic Mountain Lakes – Restoration and Renovation Handbook." (Available on the Mountain Lakes Historic Preservation [CommitteeCommission](#) website, or upon written request to the Mountain Lakes Historic Preservation [CommitteeCommission](#).)

19. _____ To the best my knowledge, any **alterations** to the **contributing dwelling** that were performed after the **Bulk Incentives Effective Date** and prior to the date of this Checklist and Certification, together with any proposed **alterations** (in each case excluding **alterations** that are deemed to have been made prior to the **Bulk Incentives Effective Date** pursuant to an approval granted under § 40-49B(5)), fully comply with the requirements of § 40-49B.

MUST BE COMPLETED FOR ALL CERTIFICATIONS:

20. _____ I have printed and submitted with each copy of this application (1) true and correct color copies of photographs of the **contributing dwelling** located on the property that are currently available on the Mountain Lakes Historic Preservation [Committee'sCommission's](#) historic preservation incentives website representing the condition of the property as of the **Bulk Incentives Effective Date**, and (2) color copies of photographs of the **contributing dwelling** located on the property that accurately represent corresponding views of the **contributing dwelling** as of the date of this certification.

21. _____ I have caused to be delivered to the Mountain Lakes Historic Preservation ~~Committee~~Commission, in care of the Mountain Lakes Borough Hall, at least one additional complete copy of the applicant's application, including this Checklist and Certification and the photographs required under Question 20.

Certified by: _____.

Print Name: _____

License #: _____

Date: _____