PLEASE TAKE NOTICE the following ordinance was introduced and passed on first reading at the October 19, 2026 meeting of the Mayor and Borough Council was scheduled for a public hearing to begin at 7:00 p.m. on November 16, 2026, in the Municipal Building, located at 555 Brighton Avenue, Spring Lake Heights, at which time and place any person desiring to comment on this ordinance will be given the opportunity to be heard. A copy of the ordinance is available in the clerk's office.

Janine Gillis, Borough Clerk

ORDINANCE NO. 2026-16

BOROUGH OF SPRING LAKE HEIGHTS
COUNTY OF MONMOUTH

AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI, AFFORDABLE HOUSING SECTION 650-15 RESIDENTIAL DEVEOPMENT FEES

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act") establishing the statutory calculation of the state-wide fair share obligation for the Fourth Round of affordable housing for the time period 2025-2035; and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide its calculation of every municipality's Fourth Round fair share affordable housing obligations based upon the criteria on the Amended FHA and the DCA issued a report on October 18, 2024 (the "DCA Report") wherein it supplied its calculation of the fair share affordable housing obligation for all municipalities, including the Borough of Spring Lake Heights; and

WHEREAS, the DCA Report calculated Spring Lake Heights's Fourth Round fair share obligations as follows: Present Need (Rehabilitation) Obligation of 35 units and a Fourth Round Prospective Need (New Construction) Obligation of 44 affordable housing units; and

WHEREAS, the Borough of Spring Lake Heights (the "Borough" or "Spring Lake Heights") having filed a resolution of participation in the Affordable Housing Dispute Resolution Program (the "Program") and a declaratory judgment action bearing the caption, In the Matter of the Borough of Spring Lake Heights, Superior Court of New Jersey, Law Division, Docket No. MON-L-436-25 on January 21, 2025; and

WHEREAS, the Borough having filed its Housing Element and Fair Share Plan on June 4 2025 (the "HEFSP"); and

WHEREAS, FSHC and other objectors having filed challenges pursuant to N.J.S.A. 52:27D-304.1(f)(2)(b) regarding the Borough's HEFSP on August 31, 2025; and

WHEREAS, the Mediation before the Program was unsuccessful, and the Program, Judge, the Hon. Mary C. Jacobson, A. J.S.C. (retired), having found the Borough's position legally consistent with the Fair Housing Act and issued a Program Decision on January 8, 2026 which

requires the Borough to implement its Fourth Round Affordable Housing obligation through the adoption of an updated Affordable Housing and Development Fee ordinance; and

WHEREAS, the Borough Council of the Borough of Spring Lake Heights adopted Ordinance 2026-02 Fourth Round Affordable Housing Ordinance as required by the Amended FHA, which included an updated residential and non-residential development fee component in order to continue to obtain immunity from builder's remedy litigation; and

WHEREAS, the residential development fee ordinance has become cumbersome to implement and the Borough seeks to amend it to make it less burdensome for the public.

NOW THEREFORE, BE IT HEREBY ORDAINED by the Mayor and Council of the Borough of Spring Lake Heights in the County of Monmouth, State of New Jersey that it hereby amends Section 22-650-15 "Residential Development Fees" as follows:

[additions are underlined and bolded and deletions are marked with strike-out].

§22-650.15

1. Residential Development Fees
    a. Imposed fees
        i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.0% of the equalized assessed value for residential development, provided no increased density is permitted..
        ii. 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 6.0% 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.

            Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and the specified higher percentage of 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.
    b. Eligible exactions, ineligible exactions and exemptions for residential development
        i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.
        ii. Developments that have received preliminary or final site plan approval prior to the adoption of this ordinance and any preceding ordinance permitting the collection

of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building 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.

iii. Development fees shall be imposed and collected when an existing structure undergoes a change **resulting in an increase in the livable space by twenty-five percent,** ~~of the to a more intense use~~, is demolished and replaced, ~~or is expanded,~~ if the ~~expansion~~ **increase in livable space** is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

iv. Developers of one- or two-family owner occupied dwelling units ~~and green buildings~~ shall be subject to a reduced fee of fifty percent (50%).

v. Nonprofit organizations constructing residential projects which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.

vi. Federal, state, county and local governments shall be exempted from paying a development fee.

Repealer

All ordinances or code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Severability

If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

Effective Date

This ordinance shall take effect upon its passage and publication, as required by law.