

ORDINANCE NO.: 13 - 18

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE TERMINATION OF THE MAY 19, 2011 UTILITY EASEMENT FROM THE BOROUGH OF MOUNT ARLINGTON TO THE BOROUGH OF MOUNT ARLINGTON FOR THE PROPERTY LOCATED IN BLOCK 18, LOT 12

WHEREAS, Block 61, part of Lot 17.01 is part of the Borough of Mount Arlington's Arlington Glen which is encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection's Green Acres Program. In conjunction with the past public utility easement to the Borough of Mount Arlington, it was necessary to remove the Green Acres restrictions from a .11 Acre portion and .049 Acre portion of Arlington Glen. The removal of Green Acres restrictions from parkland required the approval of the Commissioner of the Department of Environmental Protection and the State House Commission; and

WHEREAS, Block 18, part of Lot 12 is part of the Borough of Mount Arlington's Municipal Beach which is encumbered with restrictions against disposal or diversion from recreation and conservation uses by the New Jersey Department of Environmental Protection's Green Acres Program. In conjunction with past public easements and conveyances, it was necessary to remove the Green Acres restrictions from (a) 0.378 acre of the Property which was previously conveyed by the Borough to the adjacent owner of the property currently identified for tax purposes as Block 18 Lot 10; (b) 0.051 acre of the Property, in order to legalize a private, non-exclusive access easement conveyed by the Borough to the Adjacent Property Owner under the Prior Deed, the Re-recorded Deed, and the Corrective Deed and Expansion of Easement Property, inclusive of a proposed expansion of said access easement; and (c) 0.083 acre of the Property in connection with a previously recorded sewer pump station easement conveyed by the Borough to the Musconetcong Sewerage Authority; The removal of Green Acres restrictions from parkland required the approval of the Commissioner of the Department of Environmental Protection and the State House Commission; and

WHEREAS, a Release and Compensation Agreement, releasing Green Acres restrictions on a portion of Block 18, Lot 12 (Municipal Beach) and encumbering the replacement land on Block 12, Lot 1; and a Release and Compensation Agreement, releasing Green Acres restrictions on a portion of Block 61, Lot 17.01 (Arlington Glen) and encumbering the replacement land on Block 12, Lot 1 were required to be executed with the State of New Jersey Department of Environmental Protection and recorded in the Morris County Clerk's Office. Additionally, a Deed of Restriction concerning the replacement, which references both Diversion applications since it serves as compensation for the

diversions/disposal on both park properties, is to be recorded upon authorization of the appropriate Ordinance; and

WHEREAS, the State of New Jersey Department of Environmental Protection Green Acres Program, Bureau of Legal Services and Stewardship requested that as part of finalizing the Diversion process that the Utility Easement for water and wastewater on the property located in Block 18, Lot 12 recorded on May 19, 2011 from the Borough of Mount Arlington to the Borough of Mount Arlington in the Morris County Clerk's Office in Book 21801, Page 874, a copy of which is attached hereto and incorporated herein as if set forth at length, be terminated. This is due to the fact that on May 9, 2018 a Utility Easement for water and wastewater on the property located in Block 18, Lot 12 from the Borough of Mount Arlington to the Musconetcong Sewerage Authority (MSA) was recorded in the Morris County Clerk's Office in Book 23341, Page 1885, a copy of which attached hereto and incorporated herein as if set forth at length; and

WHEREAS, the May 19, 2011 easement from the Borough of Mount Arlington to the Borough of Mount Arlington physically overlays the May 9, 2018 easement extended from the Borough of Mount Arlington to the Musconetcong Sewerage Authority (MSA). The May 19, 2011 easement from the Borough of Mount Arlington to the Borough of Mount Arlington is not necessary and creates confusion as to what purpose it may serve now that the water and wastewater on the property located in Block 18, Lot 12 easement is correctly with the Musconetcong Sewerage Authority (MSA). Accordingly, in order for the title to be accurate and concise, it is recommended that the May 9, 2018 easement be terminated.

WHEREAS, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the Termination Easement, a copy of which attached hereto and incorporated herein as if set forth at length and recommends the document be executed and recorded in the office of the Morris County Clerk.

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey, that the Termination Easement is accepted, and directs it be signed and provided to the Morris County Clerk for recordation. The Borough Mayor and the Borough Clerk shall be authorized and empowered to sign any and all documents required to effectuate the within transaction.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on October 2, 2018 and will be further considered after a Public Hearing held on November 7, 2018 at the Municipal Building at 7:00 P.M.

INTRODUCED:

PUBLISHED:

ATTEST:

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY



Linda DeSantis, RMC, Borough Clerk



Michael Stanzilis, Mayor