**ORDINANCE NO. 5-2021**

**OF THE GOVERNING BODY**

**OF THE BOROUGH OF BLOOMINGDALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AMENDING CHAPTER 92, SECTION 61.1 OF THE BOROUGH CODE KNOWN AS THE “AH-1 AFFORDABLE HOUSING OVERLAY ZONE”**

 **WHEREAS,** the Borough of Bloomingdale recognizes the importance of complying with its Affordable Housing obligation; and

 **WHEREAS**, the Borough established Chapter 92, Section 61.1, known as the “AH-1 Affordable Housing Overlay Zone” in order to establish a realistic opportunity for the development of the site known as the “Meer Tract” which was the subject of a Superior Court Order in the matter of DR Horton Venture v. Borough of Bloomindale and Planning Board of the Borough of Bloomingdale, which pertains to the development of 360 units of which 72 of such units would be designated for affordable housing on approximately 33.81 acres of land; and

 **WHEREAS**, the site has extensive development costs which the Borough has sought to provide an incentive to adjacent, adjoining or existing property owners of the affordable housing site in order to achieve a realistic development opportunity for inclusionary affordable housing in the Borough; and

 **WHEREAS**, site preparation alone may not suffice to mitigate the cost of the development of affordable housing on the premises; and

 **WHEREAS**, the Borough believes that in the event the land development cost were minimized by way of site preparation or alternatively even the donation of a portion of the land or a dramatic reduction in the land cost, it would provide a realistic opportunity for the development of the site.

 **NOW, THEREFORE, BE IT ORDAINED**, by the Acting Mayor and Council of the Borough of Bloomingdale that the Borough Code is hereby amended, specifically Chapter 92, Section 61.1, which is known as the “AH-1 Affordable Housing Overlay Zone” as follows:

 **SECTION ONE.** The Code of the Borough of Bloomingdale is hereby amended to establish the following Section:

**Section 92-61.1.**

1. **Background:** It is the purpose and intent of this section to provide for necessary Court ordered Affordable Housing by providing zoning incentives to establish a realistic opportunity to develop such housing.
2. **Purpose of AH-1 Affordable Housing Overlay Zone.** The AH-1 Affordable Housing Overlay Zone shall provide, after meeting the requirements of such Overlay Zone, for quarry and mining operations due to the presence of resources suitable for mining, but at the same time also recognizes the necessity for appropriate regulation of the excavation of these resources. Accordingly, the permitted uses for property located in the AH-1 Affordable Housing Overlay Zone shall be those set forth in §92-58 entitled M-1-Q Light Industrial and Quarry Zone, subject to the property owner first obtaining site plan approval to insure that such properties shall be operated in a manner that properly and adequately addresses issues of erosion, drainage, and possible dangers associated with steep mining faces, while facilitating the reclamation of the site for ultimate development in a manner consistent with the underlying zoning, upon completion of the quarrying and mining operations**.**
3. **Requirements of AH-1 Affordable Housing Overlay Zone.** The AH-1 Affordable Housing Overlay Zone provides for an incentive for the development of the property known as Block 5105 Lot 14.01 (formerly Block 105 Lot 14), commonly referred to as the “Meer Tract” as such incentives benefit the adjacent tract which is Block 5105 Lot 84 commonly referred to as the “Bloomingdale Quarry Tract”. In January of 2018, the property known as Block 5105, Lot 14 was subdivided. Block 5105, Lot 14.01 on the Tax Map of the Borough of Bloomingdale was established as an approximately 33.81 acres of land to be developed for affordable housing. The remaining land was established as Block 5105, Lot 14.02 as the remainder of the tract of land consisting of approximately 146.18 acres of land.
4. Block 5105, Lot 14.01, commonly known as the “Meer Tract”, consists of approximately 35acres of vacant land (and officially subdivided as 33.81 acres) which have been Court Ordered and approved for a multi-family inclusionary development containing 360 residential units. Accordingly, approximately 146 acres of land remains on the former portion ofMeer Tractknown as Block 5105, Lot 14.02. Due to the significant site development cost, and the inability to develop this site for the past ten years, this AH-1 Affordable Housing Overlay Zone provides for contiguous property owners, or the owners of the tract, to the 33.81 acres of inclusionary development to engage in the use of mining and quarrying, providing that, as a prerequisite, the use includes extensive site preparation of the 33.81 acres or a donation of land to the Borough or developer for the purpose of subsidizing the development costs in an expedited manner for the Affordable Housing development of the Meer Tract. Such site preparation, which is defined as extraction and grading, must be in accordance with a commitment to develop the Affordable Housing as to the Meer Tract and the corresponding site preparation must be completed in order to qualify for this AH-1 Affordable Housing Overlay Zone.
5. The aforesaid site preparation work shall be the equivalent to the extent of rock extraction and levelling that would have otherwise been required as part of the site preparation work contemplated by the preliminary and final site plan approval granted to D.R. Horton, Onc. – New Jersey and Bloomingdale Joint Venture by the Bloomingdale Planning Board pursuant to its Resolution #618 memorialized on June 19, 2008.

**(iii)** So long as the owner of the Bloomingdale Quarry Tract, provides site preparation to the approximately 33.81 acres of the Meer Tract property as set forth above, or donation of land as set forth in Section (1) above, to the satisfaction of the Borough Engineer, the remaining portion of this Zone as it pertains to Block 5105, Lot 14.02 shall qualify for this “AH-1 Affordable Housing OverlayZone**”** and the zoning district and development standards, except as noted in this Section, §92-58 entitled M-1-Q, Light Industrial and Quarry Zone, shall apply.

1. **The AH-1 Affordable Housing Overlay Zone is established as an overlay zone to the AH Affordable Housing Zone**.

The AH-1 Affordable Housing Overlay Zone is shown on the Zoning Mapwhich is Block 5105, Lot 14***,*** now known as Block 5105, Lots 14.01 & 14.02. Any development standards not expressly provided in the AH-1 Overlay District shall be governed by the standards in the M-1-Q District. Where there is a conflict between the development standards provided for in the AH-1 Overlay District and the development standards provided for in the underlying zoning district, then the development standards of the AH-1 Affordable Housing Overlay Zone shall apply.

1. **StandardsRequired to Qualify for AH-1 Affordable Housing Overlay Zone Development as it pertains to Block 5105, Lot 14.02.**

When a land owner complies with the requirements of this AH-1 Affordable Housing Overlay Zone, the provisions of the M-1-Q, Light industrial and Quarry Zone, Borough Code §92-58 and the provisions contained therein shall apply to land located within this zone subject to the following restrictions or limitations

1. The existing quarry operations provides for shipping and transportation of materials and products to and from the quarry. Such existing hours of operation would remain the same and not eligible for extension until such time that a new access road onto Union Avenue from Wanaque is established whereby vehicles would utilize Union Ave for a short distance before intersecting with entrance ramps for interstate 287.

1. **The existing quarry and material processing are buffered by quarry walls to the North, West and South, and to the East Route 287**. The AH-1 Affordable Housing Overlay Zone requires that the primary material processing operation must be maintained on property that is located in the M-1-Q zone and adjacent to the AH-1 Affordable Housing Overlay Zone in order to minimize disturbance and benefit from the present location of the process operations and the existing buffers of a quarry wall on Route 287. This overlay zone shall provide that the property owner may only conduct quarrying and mining operations. The ancillary and support functions shall not generate noise which would be perceptible outside of the quarry. In accordance with a phasing of the project that is marked on the map referenced as Exhibit B with Phase 1, Phase 2 and Phase 3. Quarrying and mining operations may not proceed to a succeeding phase until the quarrying and mining in the preceding phase has been completed. All quarrying and mining is subject to Federal and State laws and regulations, including but not limited to New Jersey Department of Environmental Protection’s rules and regulations and notwithstanding anything else referenced in this Ordinance or the Borough’s Code, all activity on the site in the AH-1 Affordable Housing Overlay Zone is subject to site plan approval from the Borough Planning Board. The principal structures utilized in the crushing and processing operations shall be located within the Bloomingdale Quarry Tract and may not be located on Block 5105, Lots 14.01 and 14.02.
2. **With respect to access as to the AH-1 Affordable Housing Overlay Zone, specifically Block 5105, Lot 14.02*,* there shall be no access provided with respect to the AH-1 Affordable Housing Overlay Zone except from the adjoining quarrying operation and site.** Any other access to the AH-1 Affordable Housing Overlay Zone will only be for the purposes of emergencies and permission by the Borough.
3. **Additional Requirements and Regulationsin the Event Block 5105, Lot 14.02 Qualifies for the AH-1 Affordable Housing Overlay Zone.**
4. All quarrying operations shall be subject to the requirements of §92-25**,** as amended, with the exception that hours of operation shall be governed by the AH-1 Affordable Housing Overlay Zone restrictions only.
5. All quarrying operations shall be subject to the requirements of §32-2, as amended, with the exception that (i) hours of operation and (ii) backfill and quarrying operations shall be governed by the AH-1 Affordable Housing Overlay Zone restrictions only,.
6. Where a proposed use abuts a residential zone boundary line, the set-back for quarrying activity shall be 300 feet which shall be a planted buffer with sufficient height to provide reasonable year-round screening, as approved by the Borough Planning Board.
7. **Setbacks and Restrictions**:
8. This AH-1 Affordable Housing Zone provides that where the boundaries of the properties adjoin or abut a residential zone, reasonable year-round screening, as approved by the Borough Planning Board, will be required where vegetative screening does not exist. An overall 300 foot undisturbed buffer and conservation easement shall be provided for additional screening from adjoining residential districts.
9. All quarrying operations must comply with all Federal, State and Local guidelines.
10. The access to thequarry operations Block 5105, Lot 14.02 shall be permitted from an adjoining property so long as the contiguous owner consents to such access and which is approved by the Planning Board in the form of a Site Plan Approval. There shall be no other ingress or egress access to the quarry operations except for emergency uses.
11. As long as the access to the site, Block 5105, Lot 14.02, is from Union Avenue, Wanaque, the hours of operation of this site shall be:
* Shipping and transportation are permitted at all hours.
* Ancillary and support functions, such as material movement within the site and maintenance activities, may operate at all hours.
* Drilling is permitted between the hours of 7:00 a.m. and 5:00 p.m., not including Saturday, Sunday and legal holidays.
* Blasting may operate between the hours of 8:00 a.m. and 5:00 p.m., not including Saturday, Sunday and legal holidays.

All operations activity must be in compliance with all noise regulation provisions of N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29-1 et seq.

1. An escrow of $5,000 shall be established on an annual basis to provide for the Borough conducting appropriate and necessary inspections of the operation of the site to confirm compliance and areas of disturbance are in accordance with approvals.

**SECTION 2.**All ordinances of the Borough of Bloomingdale, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

**SECTION 3.**If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

**SECTION 4.**This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

**PUBLIC NOTICE**

**NOTICE IS HEREBY GIVEN**, that the above Ordinance was introduced and passed on first reading at an Official Meeting of the Governing Body of the Borough of Bloomingdale, County of Passaic, State of New Jersey held via a Zoom webinar on February 2, 2021 and the same shall come up for final passage at an Official Meeting of the Governing Body to be held on March 16, 2020 at 7PM, at which time any persons interested shall be given the opportunity to be heard concerning said Ordinance. Copies of this Ordinance are available in the Clerk’s Office located at 101 Hamburg Turnpike, Bloomingdale, New Jersey.

Members of the public may participate in the meeting at the designated time by calling service number 929-205-6099 and dialing **Meeting ID # 797 772 2456** at the prompt, or by visiting <https://us02web.zoom.us/j/7977722456>

Breeanna Calabro, RMC
Municipal Clerk