

2009-06

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF
HADDONFIELD, COUNTY OF CAMDEN, STATE OF NEW JERSEY,
CHAPTER 63 ENTITLED AFFORDABLE HOUSING**

Be it ordained by the Board of Commissioners of the Borough of Haddonfield, County of Camden, State of New Jersey, as follows:

SECTION I

Chapter 63 of the codified ordinances of the Borough of Haddonfield entitled Affordable Housing is hereby amended in its entirety to read as follows:

ARTICLE I Definitions

§ 63-1 Terms defined.

For the purpose of this chapter, the following words and phrases shall have the following definitions:

AFFORDABLE HOUSING DEVELOPMENT – a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

COAH or the COUNCIL - The New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

DEVELOPER – the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEES - money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3

EQUALIZED ASSESSED VALUE (EAV) - the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5 and 6 of P.L.1973, c.123 (C.54:1-35a through 35c).

GREEN BUILDING STRATEGIES – those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

JUDGMENT OF RESPONSE - A judgment issued by the Superior Court approving a municipality's plan to satisfy its fair share obligation.

SUBSTANTIVE CERTIFICATION - A determination by COAH approving a municipality's housing element and fair share plan in accordance with the provisions of the Fair Housing Act and the rules and criteria as set forth herein.

ARTICLE II Fair Share Plan

§ 63-2 Intent.

This section of the Borough Code sets forth regulations regarding the low- and moderate-income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the period beginning June 2, 2008 with amendments through October 20, 2008," N.J.A.C. 5:97 et seq., the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26-1 et seq. and the Borough's constitutional obligation to provide a fair share of affordable housing for low- and moderate-income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46. These regulations are also intended to provide assurances that low- and moderate-income units (the "affordable units") are created with controls on affordability over time and that low- and moderate-income people occupy these units. Also, these regulations set forth the standards and requirements for the imposition, collection and expenditure of affordable housing development fees, as well as for the adaptability of affordable housing. These regulations shall apply except where inconsistent with applicable law.

§ 63-3 Number of affordable units required.

Except for affordable housing developments constructed pursuant to low-income tax credit regulations:

- A. At least half of the "for sale" affordable units within each affordable housing development shall be affordable to low-income households.
- B. At least half of the "rental" affordable units within each affordable housing development shall be affordable to low-income households. Of the total number of affordable rental units, 13% shall be affordable to very low income households.
- C. At least half of the affordable units in each bedroom distribution within each affordable housing development shall be affordable to low-income households.

§ 63-4 Bedroom distribution of affordable units.

- A. Affordable housing developments which are not limited to age-restricted households shall be structured in conjunction with realistic market demands so that:

- (1) The combination of efficiency and one-bedroom units is no greater than 20% of the total number of affordable units.
 - (2) At least 30% of all affordable units shall be two-bedroom units.
 - (3) At least 20% of all affordable units shall be three-bedroom units.
- B. Affordable housing developments that are limited to age-restricted households shall at a minimum have a total number of bedrooms equal to the number of age-restricted affordable units within the affordable housing development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.

§ 63-5 Establishment of rents and prices of units.

- A. In conjunction with realistic market information, the following shall be used to determine maximum rents and sales prices of the affordable units:
- (1) Efficiency units shall be affordable to one-person households.
 - (2) A one-bedroom unit shall be affordable to a one-and-one-half-person household.
 - (3) A two-bedroom unit shall be affordable to a three-person household.
 - (4) A three-bedroom unit shall be affordable to a four-and-one-half person household.
 - (5) A four-bedroom unit shall be affordable to a six-person household.
- B. For assisted-living facilities, the following standards shall be used:
- (1) A studio shall be affordable to a one-person household.
 - (2) A one-bedroom unit shall be affordable to a one-and-one-half-person household.
 - (3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- C. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
- (1) Provide an occupant for each unit bedroom;
 - (2) Provide children of different sex with separate bedrooms; and
 - (3) Prevent more than two persons from occupying a single bedroom.

§ 63-6 Establishing median income by household size.

Median income by household size shall be established using a regional weighted average of the uncapped Section 8 income limits published by HUD computed as set forth in N.J.A.C. 5:97-9.2.

§ 63-7 Establishing average rents of affordable units; heating source.

- A. The maximum rent of affordable units within each affordable housing development shall be affordable to households earning no more than 60% of median income. The average rent for low- and moderate-income units shall be affordable to households earning no more than 52% of median income. Restricted rental units shall establish at least one rent for each bedroom type for all low- and moderate-income units, provided at least 13% of all low- and moderate-income units are affordable to households earning no more than 30% of median income.
- B. Low- and moderate-income units shall utilize the same heating source as market units within an inclusionary development.
- C. Gross rents including an allowance for utilities shall be established for the various size affordable units at a rate not to exceed 30% of the gross monthly income of the appropriate household size as set forth in § 63-5 above. The allowance for utilities shall be consistent with the utility allowance approved by the New Jersey Department of Community Affairs (DCA) for use in its Section 8 Program.
- D. No affordable rental units included in the COAH requirement shall be subject to a rent control ordinance which may be adopted or in place in the Borough of Haddonfield during the time period in which affordable housing COAH controls are effective.

§ 63-8 Establishing average sales prices of affordable units; heating source.

- A. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income. Each affordable development must achieve an affordability average of 55% for restricted ownership units. Moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- B. Low- and moderate-income units shall utilize the same heating source as market units within an inclusionary development.
- C. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees to not exceed 28% of the eligible monthly income of an appropriate

household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.

§ 63-9 Condominium or homeowners' association fees.

If an affordable housing unit is part of a condominium association or homeowners' association, the Master Deed shall reflect that the assessed affordable homeowners' fee be established at 100% of the market-rate fee. This percentage assessment shall be recorded in the Master Deed.

§ 63-10 Reservation of units.

- A. Low-income housing units shall be reserved for households with a gross household income equal to or less than 50% of the median income approved by COAH. Very low-income housing units shall be reserved for households with a gross household income equal to or less than 30% of the median income approved by COAH.
- B. Moderate-income housing units shall be reserved for households with a gross household income in excess of 50% but less than 80% of the median income approved by COAH.

§ 63-11 Re-occupancy certificates.

Upon resale of an affordable unit, a certificate of re-occupancy shall be required in accordance with N.J.A.C. 5:80-26.10.

§ 63-12 Phasing of construction.

Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low- and moderate-income units whether developed in one stage or in two or more stages:

Minimum Percentage of Low and Moderate Income Units Completed	Percentage of Market Housing Units Completed
0	25%
10%	25% + 1 unit
50%	50%
75%	75%
100%	90%

§ 63-13 Control period for affordable housing.

Any conveyance of a newly constructed low- or moderate-income sales unit shall contain the restrictive covenants and liens that are set forth in N.J.A.C. 5:80-26 et seq.

§ 63-13.1 Position of Municipal Housing Liaison.

A. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of Borough of Haddonfield's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

B. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUNICIPAL HOUSING LIAISON – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Borough of Haddonfield.

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of Haddonfield to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

C. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- (1) Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Haddonfield.
- (2) Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- (3) The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Haddonfield, including the following responsibilities which may not be contracted out, exclusive of item 6 which may be contracted out:
 - (a) Serving as the Borough of Haddonfield's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (b) Monitoring the status of all restricted units in the Borough of Haddonfield's Fair Share Plan;

- (c) Compiling, verifying, and submitting annual reports as required by COAH;
 - (d) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (e) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (f) If applicable, serving as the Administrative Agent for some or all of the restricted units in the *Borough of Haddonfield* as described in F. below.
- (3) Subject to approval by COAH, the Borough of Haddonfield may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of the Borough of Haddonfield, except for those responsibilities which may not be contracted out pursuant to subsection C above. If the Borough of Haddonfield contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- (4) Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- (5) Administrative powers and duties assigned to the Municipal Housing Liaison.
- (a) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

§ 63-14 Administration of affordable housing program.

- A. Haddonfield Borough is ultimately responsible for administering the affordable housing program, including affordability controls and the Affirmative Marketing Plan in accordance with the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq.
- B. Haddonfield Borough has delegated to the Municipal Housing Liaison this responsibility for administering the affordable housing program, including administering and enforcing the affordability controls and the Affirmative Marketing Plan of Haddonfield Borough in accordance with the provisions of this chapter, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:96 and 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq.

Haddonfield Borough shall by resolution appoint the Borough Administrator as the Municipal Housing Liaison.

- C. Subject to COAH approval, Haddonfield Borough may contract with one or more administrative agents to administer some or all of the affordability controls and/or the Affirmative Marketing Plan in accordance with this chapter, the regulations of the Council on Affordable Housing pursuant to N.J.A.C. 5:96 and 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq. If Haddonfield Borough enters into such a contract, the Municipal Housing Liaison shall supervise the contracting administrative agent(s) and shall serve as liaison to the contracting administrative agent(s).
- D. The Borough of Haddonfield intends to contract with the Housing Affordability Service (HAS) of the NJ Housing and Mortgage Finance Agency to be the administrator of the sale and rental of all new affordable housing. HAS will also oversee and administer the income qualification of low- and moderate-income households; place income-eligible households in low- and moderate-income units upon initial occupancy; place income-eligible households in low- and moderate-income units as they become available during the period of affordability controls and enforce the terms of the required deed restrictions and mortgage loans. HAS will specifically administer and implement:
- (1) An administrative plan and program, and related monitoring and reporting requirements as outlined in N.J.A.C. 5:80-26.15 et seq. and the Land Development Ordinances of the Borough of Haddonfield.
 - (2) A plan for certifying and verifying the income of low- and moderate-income households as per N.J.A.C. 5:80-26.16.
 - (3) Procedures to assure that low- and moderate-income units are initially sold or rented to eligible households and are thereafter similarly resold and re-rented during the period while there are affordability controls as per N.J.A.C. 5:80-26 et seq.
 - (4) The requirement that all newly constructed low- and moderate-income sales or rental units contain deed restrictions with appropriate mortgage liens as set for in Appendices in N.J.A.C. 5:80-26 et seq.
 - (5) The several sales/purchase options authorized under N.J.A.C. 5:80-26 et seq., except that the Borough retains the right to determine by resolution whether or not to prohibit, as authorized under N.J.A.C. 5:80-26 et seq., the exercise of the repayment option.
 - (6) The regulations determining whether installed capital improvements will authorize an increase in the maximum sale price; and which items of property may be included in the sales price per N.J.A.C. 5:80-26.9.

- E. The developers/owners of any inclusionary site shall be responsible for the HAS administrative fee, affirmative marketing and advertising and such shall be a condition of Planning or Zoning Board approval.
- F. Haddonfield Borough reserves the right to replace HAS with another municipal authority or other agency authorized by COAH to carry out the administrative processes outlined above.

§ 63-15 Time period for controls.

- A. Newly constructed low- and moderate-income "rental" units shall remain affordable to low- and moderate-income households for a period of 30 years.
- B. Newly constructed low- and moderate-income "for sale" units shall remain affordable to low- and moderate-income households for a period of 30 years.
- C. Rehabilitated owner-occupied single-family housing units that are improved to code standard shall be subject to affordability controls for 10 years.
- D. Rehabilitated renter-occupied housing units that are improved to code standard shall be subject to affordability controls for at least 10 years.
- E. A housing unit created through conversion of a nonresidential structure shall be considered a new housing unit and shall be subject to affordability controls for new housing units as designated in Subsections A and B above.
- F. Affordability controls on accessory apartments shall be for a period of 30 years.
- G. Affordability controls for units in alternative living arrangements shall be for a period of 30 years.
- H. Affordability controls on buy-down units shall be for a period of 30 years.

§ 63-16 Selection of occupants of affordable units.

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.
- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions contained in N.J.A.C. 5:80-26 et seq.
- C. Households who live or work in COAH's Housing Region 5 consisting of Burlington, Camden and Gloucester Counties shall be given preference for sales and rental units constructed with this housing region. Applicants living outside this housing region will have an equal opportunity for units after regional applicants have been initially serviced.

ARTICLE III Affirmative Marketing Plan

§ 63-17 Adoption.

In accordance with the regulations of COAH pursuant to N.J.A.C. 5:96 and 5:97 et seq. and the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26 et seq., Haddonfield Borough adopted an Affirmative Marketing Plan.

§ 63-18 Compliance required.

All affordable housing units shall be marketed in accordance with the provisions therein.

§ 63-19 Applicability.

The Borough of Haddonfield has an unmet need from the second round and a third round growth share obligation. This article shall apply to all developments that contain proposed low- and moderate-income units and any future developments that may occur.

§ 63-20 Implementation strategies.

In implementing the marketing program, the administrative agent shall undertake all of the following strategies:

- A. Publication of one advertisement in a newspaper of general circulation within the housing region.
- B. Broadcast of one advertisement by a radio or television station broadcasting throughout the housing region.
- C. At least one additional regional marketing strategy using one of the other sources listed below.

§ 63-21 Plan details.

The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH housing region in which the municipality is located and covers the period of deed restriction. The Borough of Haddonfield is in the housing region consisting of Burlington, Camden and Gloucester Counties. The affirmative marketing program is a continuing program and shall meet the following requirements:

- A. All newspaper articles, announcements and requests for applications for low- and moderate-income units shall appear in the following daily regional newspaper/ publication:
- (1) The Camden Courier Post.
- B. The primary marketing shall take the form of at least one press release sent to the above publication and a paid display advertisement in the above newspaper. Additional advertising and publicity shall be on an as-needed basis. The advertisement shall include a description of the:
- (1) Location of the units;
 - (2) Direction to the units;
 - (3) Range of prices for the units;
 - (4) Size, as measured in bedrooms, of units;
 - (5) Maximum income permitted to qualify for the units;
 - (6) Location of applications;
 - (7) Business hours when interested households may obtain an application; and
 - (8) Application fees, if any.
- C. All newspaper articles, announcements and requests for applications for low- and moderate-income housing shall appear in the following neighborhood-oriented weekly newspapers within the region:
- (1) The Haddonfield Sun.
 - (2) The Retrospect.
- D. The following regional cable television station or regional radio station shall be used:
- (1) Education Access TV Channel.
- E. The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as a part of the affirmative marketing program:
- (1) Haddonfield Borough Municipal Building.
 - (2) Haddonfield Borough Public Library.

- (3) Haddonfield Information Center.
- F. The following is a listing of community contact person(s) and/or organization(s) in Burlington, Camden and Gloucester Counties that will aid in the affirmative marketing program and with particular emphasis on contracts that will reach out to groups that are least likely to apply for housing within the region:
- (1) Fair Share Housing Center.
 - (2) MEND.
 - (3) Habitat for Humanity.
 - (4) Haddonfield 65 Club.
 - (5) Mabel Kay House.
- G. Quarterly flyers and applications.
- (1) Quarterly flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:
 - (a) Burlington County Board of Realtors.
 - (b) Camden County Board of Realtors.
 - (c) Gloucester County Board of Realtors.
 - (2) Applications shall be mailed to prospective applicants upon request. Also, applications shall be available at the developer's sales/rental office.
 - (3) Additionally, quarterly informational circulars and applications shall be sent to the chief administrative employees of each of the following agencies in the counties of Burlington, Camden and Gloucester:
 - (a) Welfare or Social Service board.
 - (b) Rental Assistance Office (local office of DCA).
 - (c) Office on Aging.
 - (d) Housing Agency or Authority.
 - (e) Library.
 - (f) Area community action agencies.

- H. A random selection method to select occupants of low- and moderate-income housing will be used by HAS in conformance with N.J.A.C. 5:80-26.16(1).
- (1) HAS is the agency to administer the program. HAS has the responsibility to income qualify low- and moderate-income households; to place income-eligible households in low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of low- and moderate-income units by income-qualified households; to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26. The Borough Administrator within the Borough of Haddonfield is the designated housing officer to act as liaison to HAS. Also, HAS shall provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law.
 - (2) All developers of low- and moderate-income housing units shall be required to assist in the marketing of the affordable units in their respective developments.
 - (3) The marketing program shall commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program shall continue until all housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or re-occupancy of units continues to be necessary.
 - (4) HAS will comply with monitoring and reporting requirements as per N.J.A.C. 5:80-26.

ARTICLE IV Development Fees

§ 63-22 Intent.

- A. In *Holmdel Builder's Association V. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- B. Pursuant to P.L.2008, c./46 section 8 (C. 52:57D-329-2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

- C. This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this article shall be used for the sole purpose of providing low- and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on developments fees, codified at N.J.A.C. 5:97-8.
- D. This article shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- E. The Borough of Haddonfield shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

§ 63-23 Residential development fees.

A. Imposed fees.

- (1) Within all zoning district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
- (2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, 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 one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent 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 exaction, ineligible exactions and exemptions for residential development:

- (1) 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 a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

- (2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- (3) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion 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.
- (4) Developers of residential structures demolished and replaced as a result of a natural disaster shall be exempt from paying a development fee.

§ 63-24 Nonresidential development fees.

A. Imposed fees

- (1) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (2) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time final certification of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

B. Eligible exactions, ineligible exactions and exemptions for non-residential development:

- (1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.

- (2) The two and one-half percent (2.5%) fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- (3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.
- (4) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- (5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Haddonfield as a lien against the real property of the owner.

§ 63-25 Eligible exaction, ineligible exactions and exemptions.

Repealed

§ 63-26 Collection procedures.

- A. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instruction provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The construction official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.

- D. Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- E. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- F. Within 10 business days of a request for the scheduling of a final inspection, the municipal Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- G. Should The Borough of Haddonfield fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b of Section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- H. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at issuance of the building permit and that determined at issuance of certificate of occupancy.
- I. Appeal of development fee:
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Haddonfield. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Haddonfield. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et. Seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 63-27 Affordable Housing Trust Fund.

- A. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with existing controls.
- B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identified by source and amount:
 - (1) Payments in lieu of on-site construction of affordable units;
 - (2) Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (3) Rental income from municipally operated units;
 - (4) Repayments from affordable housing program loans;
 - (5) Recapture funds;
 - (6) Proceeds from the sale of affordable units; and
 - (7) Any other funds collected in connection with the Borough of Haddonfield's affordable housing program.
- C. Within seven days from the opening of the trust fund account, the Borough of Haddonfield shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

§ 63-28 Use of funds.

- A. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Haddonfield's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- B. Funds shall not be expended to reimburse the Borough of Haddonfield for past housing activities.

- C. At least 30 percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent (30%) or less of median income by region.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - (2) Affordability assistance to households earning 30 percent (30%) or less of median income may include buying down the cost of low- or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent (30%) or less of median income.
 - (3) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- D. The Borough of Haddonfield may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- E. No more than 20 percent (20%) of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consult fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent (20%) of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 63-29 Monitoring.

The Borough of Haddonfield shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Haddonfield's housing program, as well as to the expenditure of revenues and

implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

§ 63.30 Ongoing collection of fees

The ability for the Borough of Haddonfield to impose, collect and expend development fees shall expire with its substantive certification unless the Borough of Haddonfield has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Haddonfield fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L.1985, c.222 (C.52:27D-320). The Borough of Haddonfield shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough of Haddonfield retroactively impose a development fee on such a development. The Borough of Haddonfield shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

ARTICLE V Adaptability Requirements

§ 63.31 Adaptable and Accessible Units (per N.J.A.C. 5:97-3.14)

- A. The first floor of all townhouse dwelling units and of all other multistory dwelling units which are affordable to low or moderate households shall be subject to the technical design standards of the Barrier Free Subcode (N.J.A.C. 5:23-7).

- B. Each affordable townhouse unit or other affordable multistory dwelling unit that is attached to at least one other dwelling unit shall have the following features:
 - (1) An adaptable toilet and bathing facility on the first floor;
 - (2) An adaptable kitchen on the first floor;
 - (3) An accessible route of travel;
 - (a) An interior accessible route of travel shall not be required between stories.
 - (4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - (5) Accessible entranceways.
 - (a) The developer shall provide an accessible entranceway as set forth at N.J.A.C. 5:97-3.14 for each affordable townhouse unit or other affordable

multistory dwelling unit and is attached to at least one other dwelling unit; or

- (b) The developer shall provide funds sufficient to make 10% of the adaptable entrances in the development accessible as set forth at N.J.A.C. 5:97-3.14.
- (6) The developer of the project shall submit a conversion plan indicating the steps necessary to convert the unit from being adaptable to accessible. Said plan shall be submitted at the time of issuance of a building permit.
 - (7) Where the developer will provide funds sufficient to make 10% of the adaptable entrances in the development accessible, the developer of the project shall submit the following to the Borough, at the time of issuance of the building permit, in order to determine the required funds:
 - (a) Funds sufficient to make 10% of the adaptable entrances in the development accessible; and
 - (b) A cost estimate for conversion of 10% of the adaptable entrances in the development to accessible.
 - (8) In the case of an affordable unit or units which are constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed by the Borough.

First Reading – February 10, 2009
Second Reading – February 24, 2009