

**TOWNSHIP OF HAINESPORT
ORDINANCE 2016-5-4**

**AN ORDINANCE REPEALING AND REPLACING
ARTICLE IX, LOW AND MODERATE INCOME
HOUSING, §104-65, SUB-SECTIONS D, E, AND F,
REGARDING RESIDENTIAL AND NON-RESIDENTIAL
DEVELOPMENT FEES.**

WHEREAS, in Holmdel Builders 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, 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.

WHEREAS, the Township Committee of Hainesport, in the County of Burlington, New Jersey (the "Township") has established standards for the collection, maintenance, and expenditure of development fees, and provides that affordable housing trust fund monies shall be used for the sole purpose of providing low- and moderate-income housing in the Zoning Ordinance.

WHEREAS, the Township seeks to increase the development fees it imposes in accordance with the amount permitted by law in order to support the Township's ability to address its constitutional obligation of providing its fair share of low- and moderate- income housing obligations.

WHEREAS, on April 12, 2016, Township Committee directed the Joint Land Use Board to review the proposed Amendment to the Zoning Ordinance for comments and for consistency with the Master Plan; and

WHEREAS, on May 4, 2016, the Joint Land Use Board of the Township reviewed the proposed Amendment to the Zoning Ordinance, concluding that it is consistent with the Master Plan of the Township; and

WHEREAS, on April 17, 2016, public notice of the public hearing on the Amendment to the Zoning Ordinance was published in the Burlington County Times;

WHEREAS, on April 13, 2015, a copy of the proposed Amendment to the Zoning Ordinance was posted on the public notice board in the Hainesport Township Municipal Building;

WHEREAS, on May 6, 2016, notice by personal service or certified mail of the public hearing on the Amendment to the Zoning Ordinance was made to the Burlington County Planning Board;

WHEREAS, the Township Committee believes the adoption of the Zoning Ordinance Amendment is in the best interests of the Township.

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of Hainesport as follows:

Article I. Amendment to the Zoning Ordinance.

Article IX, Low and Moderate Income Housing, §104-65 Development Fees, sub-sections D, E, and F are repealed and replaced with the following:

D. Residential development fees.

1. Imposed Fees.

- a. Residential Dwelling Units. In all zoning districts, all new residential dwelling units shall pay a development fee of 1.5% of the equalized assessed value of any new residential development, provided no increased residential density is approved.
- b. Increased Dwelling Unit Density. When an increase in residential density is approved pursuant to N.J.S.A. 40:55D-70d(5), developers shall be required to pay a development fee of 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.

2. Eligible exactions, ineligible exactions, and exemptions for residential development

- a. Affordable Units. 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.
- b. Grandfather Clause. Developments that have received preliminary or final site plan approval prior to the adoption of the 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.

- c. Demolition and Reconstruction. Residential structures demolished and replaced shall be exempt from paying a development fee.
- d. Additions and Alternations. Additions and alterations to existing residential dwelling units shall be exempt from the development fee, unless the construction results in a net gain in the number of residential dwelling units. In the event the addition or alteration results in a net gain in the number of residential dwelling units, the development fee shall be based on the increase in the equalized assessed value of the improved structure.

E. Non-residential development fees.

1. Imposed Fees.

- a. New Construction. In all zoning districts, new non-residential development shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot or lots.
- b. Expansion. Non-residential development expansion shall pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures.
- c. Demolition and Reconstruction. Non-residential development fees shall also be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a 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 certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- d. Mixed-Use Buildings. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted.

2. Eligible exactions, ineligible exactions, and exemptions for nonresidential development fees.

- a. Alterations. Change in Use. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, renovations, repairs, and changes in use within existing footprint.

F. [Left intentionally blank]

Article III. Inconsistency. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies and should any section, clause, sentence, phrase or provision of any item in this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Article IV. Public Inspection. A copy of this Ordinance and the Redevelopment Plan Amendment shall be available for public inspection at the office of the Township Clerk during regular business hours.

Article V. Effective Date. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey and upon the filing of same with the Burlington County Planning Board as required by N.J.S.A. 40:55D-16.

NOTICE OF PUBLIC HEARING

TOWNSHIP OF HAINESPORT ORDINANCE 2016-5-4

AN ORDINANCE REPEALING AND REPLACING ARTICLE IX, LOW AND MODERATE INCOME HOUSING, §104-65, SUB-SECTIONS D, E, AND F, REGARDING RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT FEES.

The ordinance published herewith was introduced and passed upon first reading at a regular meeting of the Township Committee of the Township of Hainesport held on April 12, 2016. It will be further considered for final passage after a public hearing at the regular meeting to be held on May 10, 2016 at the Municipal Building, One Hainesport Centre, Hainesport, New Jersey at 7:30 P.M. at which time and place any persons desiring to be heard upon the same will be given an opportunity to be heard. During the week prior to and up to and including the date of such meeting or further consideration, copies of said Ordinance in its entirety may be obtained from the Township Clerk.

Dated:

Leo F. Selb, Jr.
Township Administrator/Clerk

	Motion	Second	Ayes	Nays	Abstention	Absent
Boettcher	X		X			
Porto			X			
Fitzpatrick		X	X			
Dickinson			X			
MacLachlan						X

NOTICE OF FINAL PASSAGE

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DEVELOPMENT FEES.**

Notice is hereby given that Ordinance 2016-5-4 as entitled above has been finally adopted on final reading by the governing body of Hainesport Township after a public hearing at a meeting held on May 10, 2016. Said Ordinance shall take effect in accordance with law.

ATTEST:

Dated: _____

Leo F. Selb, Jr.
Township Administrator/Clerk

ACKNOWLEDGEMENT OF
APPROVAL BY:

Dated: _____

Michael Dickinson
Mayor of Hainesport Township

	Motion	Second	Ayes	Nays	Abstention	Absent
Boettcher	X		X			
Porto		X	X			
Fitzpatrick			X			
Dickinson			X			
MacLachlan			X			

Introduced: April 12, 2016
First Publication: April 17, 2016
Adoption: May 10, 2016
Final Publication: May 15, 2016