

TOWNSHIP OF HAINESPORT

ORDINANCE NO. 2021-7

AN ORDINANCE TO AMEND CHAPTER 44 OF THE CODE OF THE TOWNSHIP OF HAINESPORT, ENTITLED “AFFORDABLE HOUSING”, TO REESTABLISH CERTAIN REQUIREMENTS FOR AFFORDABLE HOUSING DEVELOPMENT FEES

WHEREAS, it is appropriate and necessary for the Township of Hainesport to reestablish certain requirements for the payment of Affordable Housing Development Fees in accordance with the laws, statutes, and regulations governing the production of affordable housing within the State of New Jersey; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Hainesport, County of Burlington, State of New Jersey as follows:

Article I. Renumbered Section. Section 44-33 of the Code of the Township of Hainesport entitled “Waiver”, is hereby renumbered as Section 44-34.

Article II. New Section. There is hereby added to Chapter 44 of the Code of the Township of Hainesport, a new Section 44-33 entitled “Affordable Housing Development Fees” which shall read as follows:

44-33. Affordable Housing Development Fees.

- A. Purpose. In Holmdel Builder's Ass'n. 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 COAH developing rules. The purpose of this section is to establish standards for the collection, maintenance and expenditure of development fees pursuant to the applicable State rules and regulations. Fees collected pursuant to this section shall be used for the sole purpose of providing, facilitating, monitoring, and/or administering low- and moderate-income housing. This section shall be interpreted within the framework of the COAH's rules on development fees.
- B. Retention of fees. Any fees collected prior to December 13, 1990, shall be retained by Hainesport Township pursuant to the rules and regulations in effect regarding the retention of development fees.

C. 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.
- c. Increased dwelling unit density as result of use variances. Where residential development is approved as a result of a use variance, where the underlying zoning regulations did not permit residential construction as a permitted use, or only permitted limited residential construction, thereby necessitating the obtainment of a use variance by the developer for the construction of any or additional residential units ("excess units"), developers shall be required to pay a development fee equal to the percentages of the equalized assessed value for each unit that may be constructed, over and above what the existing and underlying zoning would have permitted, as follows:
 1. For the first 20% of the excess units constructed: 1.5%.
 2. For the second 20% of the excess units constructed: 2.75%.
 3. For the third 20% of the excess units constructed: 3.50%.
 4. For the fourth 20% of the excess units constructed: 4.75%.
 5. For the fifth 20% of the units constructed: 6.0%.

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. Previous Approvals. 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 alterations. 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.
- D. Nonresidential development fees.
 - 1. Imposed fees.
 - a. New construction. In all zoning districts, new nonresidential development shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements for all new nonresidential construction on an unimproved lot or lots.
 - b. Expansion. Nonresidential development expansion shall pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures.
 - c. Demolition and reconstruction. Nonresidential development fees shall also be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e., land and improvement, at the time a final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.
 - d. Mixed-use buildings. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5%, unless otherwise exempted.
 - 2. Eligible exactions, ineligible exactions, and exemptions for nonresidential development fees.
 - a. Alterations; change in use. The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, renovations, repairs, and changes in use within the existing footprint.
- E. Credit Against Fees. Pursuant to the provisions of N.J.S.A. 40:55D-8.6(c), whenever non-residential development is situated on real property that has been previously developed with a building, structure, or other improvement, the non-residential fee of 2.5% shall be credited with an amount equal to the equalized assessed value of the land and improvements on the property where the non-residential development is situated, as determined by the tax assessor of the municipality at the time the redeveloper or owner, including any previous owners, sought approval for a construction permit, including, but not limited to, demolition permits pursuant to the State Uniform Construction Code, or approved under the Municipal Land Use Law. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero (0).

F. Collection of fees.

1. Developers shall pay 50% of the calculated development fee to Hainesport Township at the issuance of building permits. The development fee shall be estimated by the Tax Assessor prior to the issuance of building permits.
2. Developers shall pay the remaining fee to Hainesport Township at the issuance of certificates of occupancy. At the issuance of certificates of occupancy, the Tax Assessor shall calculate the equalized assessed value and the appropriate development fee. The developer shall be responsible for paying the difference between the fee calculated at certificate of occupancy and the amount paid at building permit. Fees shall be paid to CFO/Treasurer in Hainesport Township.

G. Housing trust fund.

1. There is hereby created an interest-bearing housing trust fund for the purpose of receiving development fees from residential and nonresidential developers. All development fees paid by developers pursuant to this section shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to a spending plan approved by the Superior Court and is for the purposes outlined in Section 44-30A above.
2. Should any appropriate Court or Agency determine that Hainesport Township is not in conformance with the applicable rules on development fees, the Court or Agency is authorized to direct the manner in which all development fees collected pursuant to this section shall be expended. Such authorization is pursuant to this section, the applicable rules on development fees and the written authorization from the governing body to the bank in which the housing trust fund is located.

I. Use of funds.

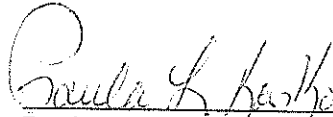
1. Money deposited in a housing trust fund may be used for any activity approved by the Court or appropriate Agency for the addressing of Hainesport Township's low- and moderate-income housing obligation. Such activities may include, but are not necessarily limited to, housing rehabilitation; new construction; regional contribution agreements; the purchase of land for low- and moderate-income housing; extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income people; and administrative costs necessary to implement the Master Plan's housing element. The expenditure of all money shall conform to a spending plan approved by the Superior Court.
2. At least 30% of the revenues collected shall be devoted to render units more affordable. Examples of such activities include, but are not limited to, down-payment assistance, low-interest loans and rental assistance.
3. No more than 20% of the revenues shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include personnel, consultant services, space costs, consumable supplies and rental or purchase of equipment.

NOTICE OF PUBLIC HEARING

HAINESPORT TOWNSHIP ORDINANCE NO. 2021-7

The Ordinance published herewith was introduced and passed upon first reading at the regular meeting of the Township Committee of the Township of Hainesport held on July 13, 2021. It will be further considered for passage after a public hearing at the regular meeting to be held on August 10, 2021 at the Municipal Building, One Hainesport Centre, Hainesport, New Jersey at 7:00 PM 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: July 13, 2021



Paula L. Kosko, RMC, Township Clerk
Township Administrator

Committee member	Motion	Second	Yes	No	Abstain	Absent
Levinson						X
MacLachlan						X
Clauss	X		X			
Montgomery		X	X			
Gilmore			X			

NOTICE OF FINAL PASSAGE

HAINESPORT TOWNSHIP
ORDINANCE NO. 2021-7

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Notice is hereby given that Ordinance No. 2021-7 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 August 10, 2021. Said Ordinance shall take effect in accordance with the law.

ATTEST:

Dated:

August 11, 2021



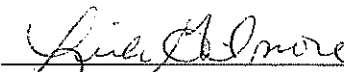
Paula L. Kosko, RMC, Township Clerk
Township Administrator

ACKNOWLEDGMENT OF

APPROVAL BY:

Dated:

Aug 11, 2021



LEILA GILMORE
Mayor of Hainesport Township

	Motion	Second	Yes	No	Abstain	Absent
Levinson			X			
MacLachlan			X			
Clauss		X	X			
Montgomery	X		X			
Gilmore			X			

Introduced: July 13, 2021
First Publication: July 18, 2021
Adoption: August 10, 2021
Final Publication: August 13, 2021