

## TOWNSHIP OF HAINESPORT

### ORDINANCE NO. 2024-8

#### AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 44 OF THE CODE OF THE TOWNSHIP OF HAINESPORT, ENTITLED “AFFORDABLE HOUSING”

**WHEREAS**, the Hainesport Township Joint Land Use Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the Township Committee and approved by the Superior Court of New Jersey. This Article implements and incorporates the Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Township Committee of Hainesport, Burlington County, New Jersey, that the Affordable Housing regulations set forth in Chapter 44 entitled Affordable Housing, are hereby amended, modified, and supplemented as follows:

##### **§ 44-1. Intent.**

- A. The Code of the Township of Hainesport is hereby amended to include provisions addressing Hainesport’s constitutional obligation to provide for its fair share of very low-, low-, and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that very low-, low-, and moderate-income units (“affordable units”) are created with controls on affordability over time and that very low-, low-, and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.
- B. The provisions of this Chapter shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Hainesport pursuant to the Township’s most recently adopted Housing Element and Fair Share Plan.
- C. Moreover, this Chapter shall apply to all developments that contain very low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very low-, low- and moderate-income housing units and including any developments funded with low-income housing tax credits.

##### **§ 44-2. Definitions.**

The following terms, when used in this chapter, shall have the meanings given in this section:

**ACCESSORY APARTMENT** — A self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

**ACT** — The Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.), as has been subsequently amended.

**ADAPTABLE** — Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-3.14(b).

**ADMINISTRATIVE AGENT** — The entity designated by the Township to administer affordable units in accordance with this chapter, N.J.A.C. 5:93, and the Uniform Housing Affordability Controls (UHAC) (N.J.A.C. 5:80-26).

**AFFIRMATIVE MARKETING** — A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

**AFFORDABILITY AVERAGE** — The average percentage of median income at which new restricted units in an affordable housing development are affordable to very low-, low- and moderate-income households.

**AFFORDABLE** — A sales price or rent within the means of a very low-, low- or moderate-income household, as defined in N.J.A.C. 5:93-7.4, and in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT** — A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Township's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project, or a 100% affordable housing development.

**AFFORDABLE HOUSING PROGRAM(S)** — Any mechanism in the Township's Fair Share Plan prepared or implemented to address the Township's fair share obligation.

**AFFORDABLE UNIT** — A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

**AGE-RESTRICTED UNIT** — A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that:

- A. All the residents of the development where the unit is situated are 62 years or older; or
- B. At least 80% of the units are occupied by one person that is 55 years or older; or
- C. The development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons," as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**AGENCY** — The New Jersey Housing and Mortgage Finance Agency (also "HMFA") established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

**ALTERNATIVE LIVING ARRANGEMENT** — A building in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to, transitional facilities for the homeless; Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities

as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE** — A facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD** — A household that has been certified by an administrative agent as a very low-, low-income household or moderate-income household.

**COAH** — The New Jersey Council on Affordable Housing established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

**DEFICIENT HOUSING UNIT** — A housing unit with health and safety code violations that require the repair or replacement of a major system. A "major system" includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load-bearing structural systems.

**DEPARTMENT or DCA** — The Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

**DEVELOPER** — Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development, including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT** — The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

**DEVELOPMENT FEE** — Shall mean money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

**EQUALIZED ASSESSED VALUE** — Shall mean 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 (N.J.S.A. 54:1-35a through 54:1-35c).

**FAIR SHARE PLAN** – Shall mean the plan that describes the mechanisms and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93.

**FHA** – Shall mean the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq.

**GREEN BUILDING STRATEGIES** – Shall mean 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.

**HOUSING ELEMENT** — Shall mean the portion of the Township's Master Plan required by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-28b(3) and other legislation.

**HMFA** — The New Jersey Housing and Mortgage Finance Agency (also "Agency") established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1 et seq.).

**INCLUSIONARY DEVELOPMENT** — A development containing both affordable units and market-rate units. Inclusionary developments must have a 20% set-aside of affordable units if the development has five or more units and is a for-sale project, or a 15% set-aside if the development is a rental project. This term includes, but is not necessarily limited to: new construction, the conversion of a nonresidential structure to residential, and the creation of new affordable units through the reconstruction of a vacant residential structure.

**INCOME** — Shall include revenue and receipts, actual or fairly imputed, from all sources, including but not limited to wages, interest, dividends, social security, pensions, government benefits, alimony, child support and rents from income property.

**INITIAL RENTAL** — Shall mean the first transfer of occupancy from a developer to a qualified renter.

**INITIAL SALE** — Shall mean the first transfer of title of a unit from a developer to a qualified buyer.

**LOW-INCOME HOUSEHOLD** — A household with a total gross annual household income equal to 50% or less of the regional median household income by household size for the applicable housing region.

**LOW-INCOME UNIT** — A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM** — The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building, which include, but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load-bearing structural systems.

**MARKET-RATE UNITS** — Housing not restricted to very low-, low- and moderate-income households that may sell or rent at any price.

**MEDIAN INCOME** — The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

**MODERATE-INCOME HOUSEHOLD** — A household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size for the applicable housing region.

**MODERATE-INCOME UNIT** — A restricted unit that is affordable to a moderate-income household.

**MUNICIPAL HOUSING LIAISON** — The Township employee charged by the governing body with the responsibility for oversight and supervision of the Affordable Housing Program for the Township of Hainesport, including overseeing the administration of affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and supervising any contracted Administrative Agent.

**NONEXEMPT SALE** — Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree

of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a Class A beneficiary; and the transfer of ownership by court order.

**PRESENT NEED** — Shall mean an estimate of very low-, low- and moderate-income households living in substandard housing as calculated through the use of census surrogates or a survey of the municipal housing stock utilizing a municipally conducted structural conditions survey. Calculations for determining need shall comply with N.J.A.C. 5:93. Same shall be reviewable by the Court, which shall review the results of the data collected and may modify the rehabilitation share number if it determines same to be necessary.

**PRIOR ROUND HOUSING OBLIGATION** — Shall mean the 1987 – 1999 fair share based on N.J.A.C. 5:93-1.

**PROGRAM** — The Township of Hainesport's Affordable Housing Program.

**RANDOM SELECTION PROCESS** — A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

**REGIONAL ASSET LIMIT** — The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

**REHABILITATION** — The repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

**RENT** — The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

**RESTRICTED UNIT** — A dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under the Agency's Urban Home Ownership Recovery Program ("UHORP") or Market Oriented Neighborhood Investment Program ("MONI").

**SUPERIOR COURT** — Shall mean the Superior Court of New Jersey.

**THIRD ROUND HOUSING OBLIGATION** — Shall mean the 1999 – 2025 housing obligation as determined by the Superior Court.

**UHAC** — The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

**VERY-LOW-INCOME HOUSEHOLD** — A household with a total gross annual household income equal to 30% or less of the regional median household income by household size for the applicable housing region.

**VERY-LOW-INCOME UNIT** — A restricted unit that is affordable to a very-low-income household.

**VETERAN'S PREFERENCE** — Shall mean a preference for very-low-, low- and moderate-income housing that is permitted by law for people that have served in the military, pursuant to Section 311.11(j), of the FHA, which allows for a municipality to enter into an agreement with a developer to provide a preference for affordable housing to low- and moderate-income veterans who served in time of war or other emergency as defined in section 1 of P.L.1963, c. 171 (C.54:4-8.10), of up to fifty percent (50%) of the affordable units in a particular project. N.J.S.A. 52:27D-311.11(j).

WEATHERIZATION — Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

**§ 44-3. Mandatory Affordable Housing Set-Aside** (Ordinance 2024-2, adopted February 13, 2024, is re-adopted and incorporated herein by reference)

**§ 44-4. Requirements for Alternative Living Arrangements**

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  - (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the State licensing/funding agency (i.e., DHS);
  - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**§ 44-5. Municipal Housing Liaison and administrative agent.**

- A. The Township of Hainesport shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the Township's affordable housing program, including overseeing the administration of affordability controls on affordable units, and the affirmative marketing of available affordable units in accordance with the Township's Affirmative Marketing Plan, fulfilling monitoring and reporting, and supervising any contracted Administrative Agent. The position of Municipal Housing Liaison for the Township was previously established, which establishment is reiterated here. Compensation shall be fixed by the Governing Body at the time of appointment of the Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by resolution of the governing body and may be a full- or part-time municipal employee. The Municipal Housing Liaison shall be approved by the Superior Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.
- B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Hainesport, including the following responsibilities which may not be contracted out to the Administrative Agent:
  - (1) Serving as Hainesport's primary point of contact for all inquiries from the state, affordable housing providers, Administrative Agents and interested households;
  - (2) Monitoring the status of all restricted units in Hainesport's Fair Share Plan;
  - (3) Compiling, verifying, submitting, and posting all monitoring reports as required by the Court and by this Chapter;

- (4) Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
- (5) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as often as needed.

C. Administrative agent.

- (1) Subject to the approval of the Superior Court, the Township shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the Township in accordance with UHAC and this Ordinance. An operating manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the Township Committee and subject to approval of the Superior Court. The operating manual(s) shall be available for public inspection in the office of the Township Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).
- (2) An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 5:80-16 and 5:80-18 thereof, which includes:
  - (a) Affirmative marketing.
    - [1] Conducting an outreach process to affirmatively market affordable housing units in accordance with the affirmative marketing plan of the Township of Hainesport and the provisions of N.J.A.C. 5:80-26.15; and
    - [2] Notifying the following entities of the availability of affordable housing units in the Township of Hainesport: Fair Share Housing Center, Fair Share Housing Development, Camden County NAACP, The Latino Action Network, Southern Burlington County NAACP, Burlington County Community Action Program, and the Supportive Housing Association.
  - (b) Household certification.
    - [1] Soliciting, scheduling, conducting and following up on interviews with interested households;
    - [2] Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a very low-, low- or moderate-income unit;
    - [3] Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
    - [4] Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the owner or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

- [5] Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located (Housing Region 5) comprising Burlington, Camden, and Gloucester Counties;
  - [6] Employing the random selection process as provided in the affirmative marketing plan of the Township of Hainesport when referring households for certification to affordable units; and
  - [7] Providing counseling or contracting to provide counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (c) Affordability controls.
- [1] Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - [2] Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  - [3] Ensuring that the removal of the deed restrictions and cancellations of the mortgage note are effectuated and properly filed with Burlington county's Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
  - [4] Communicating with lenders regarding foreclosures; and
  - [5] Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (d) Resale and rental.
- [1] Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or re-rental; and
  - [2] Instituting and maintaining an effective means of communicating information to very low-, low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (e) Processing requests from unit owners.
- [1] Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Chapter;
  - [2] Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air-conditioning systems; and



- [6] Notifying the municipality of an owner's intent to sell a restricted unit; and
  - [7] Making determinations on requests by owners of restricted units for hardship waivers.
- (f) Enforcement.
- [1] Securing annually from the Township a list of all for-sale affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
  - [2] Securing from all developers and sponsors of restricted units, at the earliest point of contract in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person other than a household duly certified to the unit by the administrative agent;
  - [3] The posting annually in all rental properties, including legal two-family homes, of a notice as to the maximum permitted rent for affordable units, together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
  - [4] Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  - [5] Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
  - [6] Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Township Committee and the Court, setting forth procedures for administering such affordability controls; and
- (g) Additional responsibilities:
- [1] The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.
  - [2] The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Chapter.
  - [3] The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

#### **§ 44-6. Submission of affordable housing plan.**

The developer of low- and moderate-income housing units shall submit to the administrative agent a description of the mechanism to be used to ensure that the required low- and moderate-income units are sold or rented only to low- and moderate- income households for a period of not less than 30 years. In addition to such description, actual samples of language to be included in the nature of deeds, leases or covenants shall be submitted.

**§ 44-7. Inclusionary Development.**

- A. Set aside: For inclusionary projects in which very low-, low- and moderate-income units are to be offered for sale, the appropriate set-aside percentage is 20%; for projects in which the very low-, low- and moderate-income units are to be offered for rent, the appropriate set-aside percentage is 15%.
- B. Phasing. Inclusionary developments shall be subject to the following schedule:

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

- C. Fractional Units. In the event the number of affordable housing units to be provided includes a fraction, the number shall be rounded up if the fractional amount is 0.5 or greater and rounded down if the fractional amount is less than 0.5. For inclusionary projects, the developer shall provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.5. The payment in lieu amount may be negotiated by the town with the developer and reflect current and updated costs for the provision of an equal-value unit. Any payment in lieu shall be included in an updated Spending Plan.”
- D. Nothing in this Chapter precludes the municipality from imposing an affordable housing set-aside in accordance with applicable law in a development not required to have a set-aside pursuant to this Chapter.
- E. Design:
- (1) Integration of Affordable Units. In inclusionary developments, to the extent possible, very low-, low- and moderate-income units shall be integrated with the market units, and not situated so as to be concentrated in separate building(s) or in separate area(s) or floor(s), or in less desirable locations, than the other units in the development. In buildings with multiple dwelling units, this shall mean that the very low-, low- and moderate-income units shall be generally distributed within each building with market units.
  - (2) In inclusionary developments, the residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
  - (3) In inclusionary developments, the very low-, low- and moderate-income units shall be no less than the largest minimum bedroom and unit square footages required under the DCA Balanced Housing and HMFA Low Income Housing Tax Credit program for bedroom sizes and unit sizes in affordable units of the same bedroom number.

## § 44-8. New construction

### A. Low/moderate split and bedroom distribution of affordable housing units:

- (1) The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13% of all restricted rental units within each bedroom distribution shall be very low-income units (affordable to a household earning 30% or less of regional median income by household size). The very low-income units shall be counted as part of the required number of low-income units within the development.
- (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be very low- or low-income units.
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
  - (b) At least 30% of all low- and moderate-income units shall be two-bedroom units;
  - (c) At least 20% of all low- and moderate-income units shall be three- bedroom units; and
  - (d) The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.
- (4) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low-and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

### B. Accessibility requirements:

- (1) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and the following.
- (2) All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor; and
  - (b) An adaptable kitchen on the first floor; and
  - (c) An interior accessible route of travel on the first floor; and
  - (d) 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
  - (e) An interior accessible route of travel between stories within an individual unit, except that if all of the terms of Subsection B(2)(a) through (d) above have been satisfied, an interior accessible route of travel shall not be required between stories within an individual unit; and
  - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
    1. Where a unit has been 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.

2. To this end, each builder of income-restricted units shall deposit funds into the Township's Affordable Housing Trust Fund sufficient to install accessible entrances in 10% of the affordable units that have not been constructed with adaptable entrances.
  3. The funds deposited under Subsection (f)[ii] above shall be used by the Township for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  4. The developer of the restricted units shall submit a design plan and cost estimate for the conversion of adaptable to accessible entrances to the Construction Official of the Township.
  5. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meets the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township's Affordable Housing Trust Fund in the care of the Township Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- (g) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

C. Income limits; maximum rents and sales prices:

- (1) In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed below:
  - (a) Regional income limits shall be established for the region in which the Township is located (in this case, Region 5) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- (b) The income limits are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for the current fiscal year, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- (c) The regional asset limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the regional asset limit be less than that for the previous year.
- (d) In establishing sale prices and rents of affordable housing units, the Township's administrative agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established pursuant to the process defined above.
  - 1. The resale prices of owner-occupied very low-, low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the above methodology. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
  - 2. The rent levels of very low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.
- (3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate- income rental units shall be affordable to very low-income households earning no more than 30% of median income, which very low-income units shall be part of the low-income requirement.
- (4) 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, and each affordable development must achieve an affordability average of 55% for restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type. Low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - (a) A studio shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one-and-one-half-person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;

- (d) A three-bedroom unit shall be affordable to a four-and-one-half-person household; and
- (e) A four-bedroom unit shall be affordable to a six-person household.
- (6) In determining the initial sales prices and rents for compliance with affordability average requirements for restricted units in assisted living facilities and age-restricted developments the following standards shall be used:
  - (a) A studio shall be affordable to a one person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
  - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (7) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost 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 homeowners' association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (8) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate size household, including an allowance for tenant-paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (9) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
- (10) The rent of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

#### **§ 44-9. Utilities.**

Affordable units shall utilize the same type of heating source as market units within the inclusionary development. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by DCA for its Housing Choice Voucher Program.

#### **§ 44-10. Occupancy standards.**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and

- D. Prevent more than two persons from occupying a single bedroom.

**§ 44-11. Buyer income eligibility.**

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income. Very-low-income units shall be reserved for households with a gross household income of less than 30% of median income.
- B. Notwithstanding the foregoing, the administrative agent may, upon approval by the Township Committee, and in consultation with the Court's Master and on Notice to Fair Share Housing Center, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
- D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner's and private mortgage insurance and condominium or homeowners' association fees, as applicable) does not exceed 33% of the household's certified monthly income.

**§ 44-12. Limitations on indebtedness secured by ownership unit; subordination.**

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the administrative agent for a determination, in writing, that the proposed indebtedness complies with the provisions of this section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).

**§ 44-13. Capital improvements to ownership units**

- A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household

or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit, and not included in the base price, may be made a condition of the unit resale, provided the price, which shall be subject to ten-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**§ 44-14. Control periods for restricted rental units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this chapter for a period of at least 30 years, until the Township of Hainesport takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1 et seq., as may be amended and supplemented.
- B. Deeds of all real property that includes restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be recorded by the developer or seller with the records office of the County of Burlington. Said deed restriction shall be executed in full, proof of which shall be provided to the Township's Administrative Agent prior to the issuance of a Certificate of Occupancy for a unit. A copy of the filed, recorded document shall be provided to the administrative agent within 60 days of the receipt of a certificate of occupancy.
- C. A restricted rental unit shall remain subject to the affordability controls of this chapter, despite the occurrence of any of the following events:
  - (1) Sublease or assignment of the lease of the unit;
  - (2) Sale or other voluntary transfer of the ownership of the unit; or
  - (3) The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**§ 44-15. Rent restrictions for rental units; leases.**

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the administrative agent.



- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the administrative agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the administrative agent, to be applied to the costs of administering the controls applicable to the unit as set forth in this chapter.

**§ 44-16. Tenant income eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - (1) Very-low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of the regional median income by household size.
  - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of the regional median income by household size.
  - (3) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of the regional median income by household size.
- B. The administrative agent shall certify a household as eligible for a restricted rental unit when the household is a very-low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - (1) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce its housing costs;
  - (2) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its continuing ability to pay;
  - (3) The household is currently in substandard or overcrowded living conditions;
  - (4) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - (5) The household documents reliable third-party assistance from an outside source, such as a family member, in a form acceptable to the administrative agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsection B(1) through (5) above with the administrative agent, who shall counsel the household on budgeting.

**§ 44-17. Control periods for restricted ownership units and enforcement mechanisms**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this article for a period of at least 30 years, until the Township takes action to release

the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the restrictions set forth in this Chapter, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. The affordability controls set forth in this article shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**§ 44-18. Price restrictions for restricted ownership units, homeowners' association fees and resale prices.**

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the administrative agent.
- B. The administrative agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowners' association fees and special assessments paid by very low-, low- and moderate-income purchasers and those paid by market purchasers.
- D. The owners of restricted-ownership units may apply to the administrative agent to increase the maximum sales prices for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or addition of a bathroom.

#### **§ 44-19. Exemption from rent control ordinances.**

All rental units, both market and affordable, shall not be subject to any rent control ordinance which may be adopted in the Township of Hainesport during the time period in which affordable housing price controls are effective.

#### **§ 44-20. Affirmative Marketing**

A. The Township has adopted by resolution an Affirmative Marketing Plan ("AMP"), subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15 and the FHA, as may be amended and supplemented. This affirmative marketing section shall apply to all developments that contain very-low-, low- and moderate-income housing units. The AMP is on file in the office of the Township Clerk and Administrative Agent.

B. The AMP 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, sex, affectional or sexual orientation, disability, age or number of children (unless units are age-restricted) to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The AMP is intended to target those potentially eligible persons who are least likely to apply for affordable units in the region. The affirmative marketing plan is a continuing program that directs marketing activities toward Housing Region 5, comprising the counties Burlington, Camden and Gloucester and is required to be followed throughout the period of restriction.

C. The AMP shall provide a regional preference for all households that live and/or work in Region 5.

D. The Township shall add to the list of community and regional organizations in its AMP, pursuant to N.J.A.C. 5:80-26.15(f)(5), FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, Southern Burlington County NAACP, Burlington County Community Action Program, Camden County NAACP, Supportive Housing Association and the New Jersey Housing Resource Center, <https://www.nj.gov/njhrc/>, in accordance with applicable law, and shall, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Township also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this subsection.

E. The Township has the ultimate responsibility for adopting the AMP and for its proper administration, including initial sale and rentals and resales and re-rentals. The Administrative Agent designated by the Township of Hainesport shall implement the AMP to assure the affirmative marketing of all affordable units.

F. In implementing the AMP, the Administrative Agent shall provide a list of counseling services to very low-, low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

G. The AMP shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the AMP, the Administrative Agent shall consider the use of language translations where appropriate.

H. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

I. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

J. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Hainesport Township, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Southern Burlington County NAACP, Camden County NAACP, Burlington County Community Action Program, the New Jersey Housing Resource Center, and the Supportive Housing Association.

#### **§ 44.21. Enforcement of affordable housing regulations**

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an owner, developer or tenant, the Township shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an owner, developer or tenant of a very low-, low- or moderate-income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - (1) The Township may file a court action in Superior Court pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units, the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Superior Court:
    - (a) A fine of not more than \$1,000.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
    - (b) In the case of an owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Hainesport Affordable Housing Trust Fund of the gross amount of rent illegally collected;
    - (c) In the case of an owner who has rented a very low-, low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Superior Court.
  - (2) The Township may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a

mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the very low-, low- or moderate-income unit.

- (a) The judgment shall be enforceable, at the option of the Township, by means of an execution sale by the Sheriff, at which time the very low-, low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
- (b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the very low-, low- and moderate-income unit. The excess, if any, shall be applied to reimburse the Township for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Township in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Township for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Township, whether such balance shall be paid to the owner or forfeited to the municipality.
- (c) Foreclosure by the Township due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very low-, low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Township may acquire title to the very low-, low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very low-, low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the very low-, low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an

offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the very low-, low- and moderate- income unit as permitted by the regulations governing affordable housing units.

- (f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the owner.

#### **§ 44.22. Appeals**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Chapter shall be filed, in writing, with the Superior Court.

#### **§ 44.23. Monitoring and Reporting Requirements**

The Township of Hainesport shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

- A. Beginning on July 13, 2024, and on every anniversary of that date through July 1, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Committee on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDOCA), Committee on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
- B. Beginning on July 13, 2024, and on every anniversary of that date through July 27, 2025, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- C. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will not be required to provide such review as it would be due in the next Round.
- D. By August 13, 2026, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

## **§ 44-24. Affordable housing development fees.**

### **A. Purpose.**

- (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, N.J.S.A. 52:27D-301 et seq., and the State Constitution subject to the adoption of Rules by the Council on Affordable Housing (COAH). 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 COAH's rules on development fees.
- (b) Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was 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 were under the jurisdiction of the Council or court of competent jurisdiction and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from nonresidential development.
- (c) This article establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the sole purpose of providing very low-, low-, and moderate-income housing. This article shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

### **B. Definitions**

**AFFORDABLE HOUSING DEVELOPMENT** – shall mean 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 one hundred (100%) percent affordable housing development.

**COAH or THE COUNCIL** – shall mean the New Jersey Council on Affordable Housing established under the Fair Housing Act.

**DEVELOPER** – shall mean any person, partnership, association, company or corporation that is 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 FEE** – shall mean money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., and regulated by applicable COAH rules.

**EQUALIZED ASSESSED VALUE** – shall mean 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 C. 54:1-35c).

**GREEN BUILDING STRATEGIES** - Shall mean 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.

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.

*Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees would equal 1.5% of the equalized assessed value on the first two units, and 6% of the equalized assessed value for the two additional units, provided that zoning on the site has not changed during the two-year period preceding the filing of such a variance application.*

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

- (a) Affordable units. Affordable housing developments and/or developments that produce affordable units shall be exempt from the payment of development fees.
- (b) Previous approvals. Developments that have received preliminary or final site plan approval prior to the adoption of this section, and any preceding article permitting the collection of development fees, shall be exempt from development fees, unless the developer seeks a substantial change in the original approval. Where a site plan approval does not apply, the issuance of a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
- (c) Any repair, reconstruction, or improvement of a structure, the cost of which is less than 50% of the market value of the structure before the improvement or repair is started shall be exempt from the payment of development fees. For purposes of this section, "market value" shall mean the equalized assessed value of the existing improvement as established by the Township Tax Assessor. The cost of the repair, reconstruction, or improvements shall be determined by an itemized construction cost estimate prepared and submitted to the Construction Official. The estimate shall be signed and sealed by an architect or professional engineer licensed by the State of New Jersey, or where no such professionals



are retained, signed by the contractor or the homeowner. Where prepared by the homeowner or contractor, the Township Engineer may review such estimates for accuracy. "Substantial improvement" is considered to commence when the first alteration of any wall, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

- [1] Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
  - [2] Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.
- (d) Structural alterations that do not increase gross floor area of a building or structure or increase the equalized assessed value of a property shall be exempted from paying a development fee.
  - (e) Non-profit organizations identified at N.J.S.A. 40:55D-8.4(b).
  - (f) The Federal and municipal governments shall be exempted from paying a development fee.
  - (g) Homes replaced as a result of a disaster such as a fire or a flood shall be exempt from the payment of a development fee. (This exemption applies only for the owner of record at the time of the fire, flood, or disaster.)

#### D. Nonresidential development fees.

- (1) Imposed fees.
  - (a) New construction. In all zoning districts, nonresidential developers 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 developers shall pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
  - (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; 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.

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

- (a) The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.
- (b) Alterations; change in use. The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, reconstruction, renovations, repairs, and changes in use within the existing footprint.
- (c) Nonresidential developments shall be exempted from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), 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.
- (d) A developer of a nonresidential development exempted from the nonresidential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for an exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three (3) years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
- (e) If a property which was exempted from the collection of a nonresidential 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 nonresidential development fees under these circumstances may be enforceable by the Township of Hainesport as a lien against the real property of the owner.
- (f) Federal, state, county, and local governments of nonresidential development shall be exempted from paying a development fee.

E. Credit against fees. Pursuant to the provisions of N.J.S.A. 40:55D-8.6c, whenever nonresidential development is situated on real property that has been previously developed with a building, structure, or other improvement, the nonresidential 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 nonresidential 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 approval under the Municipal Land Use Law. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

F. Collection of fees.

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a construction permit.
- (2) For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall

complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided by Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

- (3) The Construction Official responsible for the issuance of a Construction Permit shall notify the Township Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- (4) Within ninety (90) days of receipt of such notification, the Township Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- (5) The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.
- (6) Within ten (10) business days of a request for the scheduling of a final inspection, the Township Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee, and thereafter notify the developer of the amount of the fee.
- (7) Should the Township of Hainesport fail to determine or notify the developer of the amount of the development fee within ten (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).
- (8) Fifty (50%) percent of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- (9) Appeal of Development Fees.

A developer may challenge nonresidential 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 forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Township of Hainesport. 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 ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing trust fund.

- (1) There is hereby created an interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer of the Township of Hainesport for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls. 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 § 44-24A above.

- (2) The following additional funds shall be deposited in the affordable housing trust fund and shall at all times be identifiable by source and amount:
  - (a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Township of Hainesport;
  - (b) Funds contributed by developers to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
  - (c) Rental income from municipally operated units;
  - (d) Repayments from affordable housing program loans;
  - (e) Recapture funds;
  - (f) Proceeds from the sale of affordable units; and
  - (g) Any other funds collected in connection with Hainesport's affordable housing program.
- (3) Interest accrued in the affordable housing trust fund shall only be used to fund eligible affordable housing activities approved by the Court or a successor agency to COAH.
- (4) In the event of a failure by the Township of Hainesport to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the affordable housing trust fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Hainesport, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund or impose such other remedies as may be reasonable and appropriate to the circumstances.

#### H. Use of funds.

- (1) The expenditure of all funds shall conform to a Spending Plan approved by the Court or a successor agency to COAH. Money deposited in the 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 and may be set up as a grant or revolving loan

program. Such activities may include, but are not necessarily limited to, housing rehabilitation; new construction of affordable units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing nonresidential buildings to create new affordable units; green buildings strategies designed to be cost saving and in accordance with accepted national or State standards; the purchase of land for affordable housing; extensions and/or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; improvement of land to be used for affordable housing; administrative costs necessary to implement the Housing Element and Fair Share Plan; and/or any other activity as permitted by the Court and specified in the approved Spending Plan.

- (2) Funds shall not be expended to reimburse the Township of Hainesport for past housing activities.
- (3) At least 30% of all development fees collected and interest earned on such fees 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 very low-income households earning 30% or less of the regional median income by household size for Housing Region 5, in which Hainesport is located.
  - (a) 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. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
  - (b) Affordable assistance to households earning 30% or less of the regional median income by household size may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to very low-income households. The specific programs to be used for very low-income affordability assistance shall be identified and described within the Spending Plan.
  - (c) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Township of Hainesport, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

Notwithstanding the foregoing, Hainesport Township's Court-approved Spending Plan recognizes that the municipality cannot meet the 30% threshold set forth above.

- (4) The Township of Hainesport may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (5) No more than 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 consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and /or administer an affirmative marketing program or a rehabilitation program.

- (a) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20% of collected development fees that may be expended on administration.
  - (b) Administrative funds may be used for income qualifications of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing site or related to securing or appealing a judgment from the Court are not eligible uses of the affordable housing trust fund.
- (6) Court approval of Hainesport's spending plan constitutes a "commitment" on the part of the Township of Hainesport for expenditure of funds pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions to commence with the entry of a final judgment of repose in accordance with the provisions of *In re Tp. of Monroe*, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563).

#### **§ 44.25. Monitoring**

Beginning on July 13, 2024, the Township of Hainesport shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and nonresidential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township owned affordable housing units, repayments from affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

#### **§ 44.26. Ongoing Collection of Fees**

- (1) The ability for the Township of Hainesport to impose, collect, and expend development fees shall expire with the period covered by its Spending Plan dated December 2023 and approved by the Court in its February 2024 Judgment of Compliance unless the Township of Hainesport has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for substantive certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.
- (2) If the Township of Hainesport fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds

remaining within its affordable housing 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).

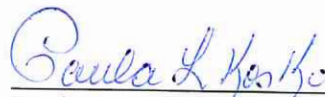
- (3) The Township shall not impose a residential development fee on a development that received preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township of Hainesport retroactively impose a development fee on such a development. The Township of Hainesport also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

**NOTICE OF PUBLIC HEARING**  
**HAINESPORT TOWNSHIP**  
**ORDINANCE NO. 2024-8**

**ORDINANCE TO REPEAL AND REPLACE CHAPTER 44 OF THE CODE OF THE  
TOWNSHIP OF HAINESPORT, ENTITLED "AFFORDABLE HOUSING"**

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 April 9, 2024. It will be further considered for passage after a public hearing at the regular meeting to be held on May 14, 2024 at the Municipal Building, One Hainesport Centre, Hainesport, New Jersey at 6:30 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: April 9, 2024



Paula L. Kosko, RMC, Township Clerk  
Township Administrator

	Motion	Second	Yes	No	Abstain	Absent
Evans			X			
Montgomery			X			
Clauss	X		X			
Tordy		X	X			
Gilmore			X			