

Ordinance No. 011, 06

TOWNSHIP OF DEPTFORD

COUNTY OF GLOUCESTER, STATE OF NEW JERSEY

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AN ORDINANCE OF THE TOWNSHIP OF DEPTFORD
IN GLOUCESTER COUNTY, NEW JERSEY,
REPLACING SECTION 38.2, ENTITLED
"AFFIRMATIVE MARKETING REQUIREMENTS"
AND REPEALING SECTION 38.3, ENTITLED
"GROWTH SHARE HOUSING" OF THE
UNIFIED DEVELOPMENT ORDINANCE OF THE
TOWNSHIP OF DEPTFORD

WHEREAS, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in *So. Burl. Co. NAACP v. Mount Laurel*, 92 N.J. 158 (1983) ("*Mount Laurel II*") and the Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* ("FHA") that every municipality in New Jersey has an affirmative obligation to facilitate the provision of low and moderate income housing; and

WHEREAS, the New Jersey Council on Affordable Housing ("COAH") is the State administrative agency created pursuant to the FHA vested with primary jurisdiction for the administration of affordable housing obligations in accordance with sound regional planning considerations in this State (N.J.S.A. 52:27D-304(a)); and

WHEREAS, COAH's Third Round Substantive Rules establish the requirement for providing affordable housing as residential and non-residential development occurs as a "growth share" and further permit municipal zoning regulations to require the production of such affordable housing or the payment in lieu of construction thereof pursuant to N.J.A.C. 5:94-4.4; and

WHEREAS, the Township of Deptford desires to amend its existing growth share ordinance to broaden its effective applicability in accordance with the Third Round Substantive Rules, codified as N.J.A.C. 5:94-1 *et seq.* and N.J.A.C. 5:95-1 *et seq.*

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Deptford, County of Gloucester, New Jersey, as follows:

Note: Underlined text, thus, is new, struck thru text, ~~thus~~, is deleted with this draft.

Section 1. §38.3, Growth Share Housing, is hereby repealed in its entirety.

Section 2. §38.2, Affirmative Marketing Requirements, of the Unified Development Ordinance of the Township of Deptford is hereby repealed in its entirety and replaced with the following new section:

§ 38.2 Growth Share Affordable Housing Obligation.

- A. Authority and purpose. Pursuant to *N.J.A.C. 5:94-4.4*, as it may be amended or superseded; it is hereby declared that all development, unless otherwise excepted in this Ordinance, shall contribute its proportionate share of the affordable housing obligation generated by such development in accordance with the following provisions.
- B. Affordable Housing Production Obligation Based Upon Growth Share.
1. Residential Development.
 - a. Any market-rate residential development in any zoning district in the Township that is not an inclusionary housing development shall provide one unit of affordable housing, as defined in §38.A, for every eight (8) new market rate units that are produced as determined by the formula in subparagraph –(b) and –(c), below, except as otherwise exempted herein. For the purposes of this ordinance, “residential development” shall mean both a development that is entirely residential, or that includes both residential and non-residential uses. “Residential development” shall also include new market-rate residential units created from the conversion of a non-residential building to residential unit(s) requiring the issuance of a certificate of occupancy.
 - b. The on-site construction percentage of affordable units shall be calculated by the total number of approved units, divided by 9.
 - c. The off-site payment in lieu of construction shall be determined by the total number of units, divided by 8, times the cost of an affordable housing unit as determined by §38.2 C, herein.
 - d. Any residential development that generates a fraction of an affordable unit shall be required, at the choice of the developer, to either construct an additional affordable unit or, alternatively, to make a payment in lieu of construction for that fraction of an affordable housing unit as determined by §38.2 C, herein.

- e. Notwithstanding any other provision to the contrary in the UDO, residential development in any zoning district in the Township that results in less than two (2) new dwelling units shall be required to pay an Affordable Housing Development Fee pursuant to §38.1. This exemption may be used only once in any three year period involving the same or substantially the same principals.
2. **Non-Residential Development.** All non-residential development that includes net new floor area in any zoning district shall be required to provide affordable housing constructed at the ratio of one affordable unit for every twenty-five (25) new jobs. The calculation of the number of jobs and employment opportunities created shall be in accordance with Appendix E of *N.J.A.C. 5:94-1, et seq.*, entitled "UCC Use Groups for Projecting and Implementing Nonresidential Components of Growth Share." In lieu of constructing affordable housing units, the developer of non-residential development may pay a contribution in accordance with §38.2 C, herein.
 3. **Exemptions.** The following types of development shall be exempt from the requirements of constructing or paying a contribution in lieu of construction to satisfy a growth share obligation:
 - a. Development by Deptford Township or any of its instrumentalities.
 - b. Deptford Township Board of Education facilities and private or parochial institutions substantially similar to same.
 - c. Houses of worship, excluding any buildings or structures associated therewith that are deemed by COAH to trigger a growth share obligation.
 - d. Residential developments that have been zoned to produce an affordable housing set-aside or that include only low and moderate income housing units shall be exempt from the growth share obligations of this section.
- C. The minimum contribution for affordable housing shall be one hundred forty thousand dollars (\$140,000.00) per affordable housing unit generated, or its fractional part thereof. This figure shall be increased in accordance with the increase in the Consumer Price Index for housing in the Philadelphia PMSA as of January 1 of each year.
 - D. Satisfaction of affordable housing production obligation. With the prior written approval of the Township Council upon favorable recommendation by the

Planning Board, the applicant may choose to satisfy its affordable housing growth share obligation through the mechanisms permitted in COAH's Rules, including:

1. On-site affordable housing production;
2. Off-site affordable housing production in the Township;
3. The purchase of an existing market rate home(s) at another location in the community and its conversion to an affordable price-restricted home in accordance with COAH's Rules;
4. Participation in buy-down/rent-down programs;
5. Any other compliance mechanism permitted by COAH's Rules.

E. Affordable Housing Compliance Mechanisms.

1. Construction of Affordable Housing On-Site.
 - a. Affordable housing units may be provided within buildings as permitted by the zoning regulations of the Township or as required by an adopted redevelopment plan.
 - b. No density increase shall be granted for the construction of the affordable housing units on-site.
 - c. All required setbacks, building height, open space requirements and coverage limits for the zone shall be met on all lots.
2. Creation of Affordable Housing Units Off-Site Within the Township.
 - a. Applicants electing to create affordable housing units elsewhere within the Township of Deptford may do so with the prior written approval of the Township Council, and may do so within existing buildings, whether converted, reconstructed or purchased for buy down, in any residential zone of Deptford Township, as set forth and regulated herein.
 - b. All such units shall meet or shall be improved to meet UCC requirements and shall be certified to be in standard condition prior to their conveyance or occupancy.
 - c. All required setbacks, building height and impervious coverage limits for the zone shall be met on the lot, except that existing setback deficiencies and other non-conformities of the lot and / or

building(s) located thereon may be continued for as long as the buildings remain on site, without the need for additional variances.

- F. Low and Moderate Income Split and Compliance with COAH Rules.
1. If only one affordable unit is required to be produced pursuant to this subsection, said unit shall be made available to a qualified low income individual or household. Where more than one affordable unit is produced, the designation of units shall be evenly split between low and moderate income individuals and households. If an odd number of low and moderate income housing units are required to be provided, the majority of the units shall be designated for low-income individuals or households.
 2. Where there are an insufficient number of affordable units provided to meet the bedroom distribution requirements of COAH's Rules, the first unit shall be a two-bedroom unit, the second unit shall be a three-bedroom unit, and the third unit shall be a one-bedroom unit. Otherwise, the bedroom distribution shall be in strict accordance with COAH's Rules.
 3. All affordable units created pursuant to this section shall comply with COAH's Rules pertaining to the phasing, integration, low/moderate income split, controls on affordability, bedroom distribution, affirmative marketing, heating source and administration of the affordable units, as set forth in *N.J.A.C. 5:94-4* and/or as otherwise provided for by COAH's Rules.
 4. It shall be the developer's responsibility, at its sole cost and expense, to ensure full COAH compliance and to timely file such certifications, reports and/or monitoring forms as may be required by COAH to verify COAH compliance of each affordable unit.

Section 4. Continuation, All Ordinances. In all other respects the Deptford Township Code of Ordinances, as amended and supplemented, shall remain in full force and effect.

Section 5. Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 6. Interpretation. If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Township of Deptford, then the restriction which imposes the greater limitation shall be enforced.

Section 7. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

Section 8. Enactment. This Ordinance shall take effect twenty (20) days after final passage and publication pursuant to *N.J.S.A. 40:69A-181* and notice to the Gloucester County Planning Board within thirty (30) days pursuant to *N.J.S.A. 40:55D-15b*.

TOWNSHIP OF DEPTFORD

BY: Paul Medany
PAUL MEDANY, MAYOR

ATTEST:

Dina L. Zawadski
DINA L. ZAWADSKI, CLERK

CERTIFICATION

The above Amended Ordinance was introduced and passed upon first reading at a meeting of the Township Council of the Township of Deptford held on the 2nd day of Oct., 2006 and will be taken up for final consideration and passage at the Regular Meeting of Mayor and Council of the Township of Deptford to be held at the Municipal Building, 1011 Cooper Street, Deptford, New Jersey, Gloucester County, on the 13th day of Nov., 2006 at 7:00 P.M. or as soon thereafter as the matter can be reached at which time any person interested shall be given an opportunity to be heard.

Dina L. Zawadski
DINA L. ZAWADSKI, CLERK