

**AN ORDINANCE OF THE TOWNSHIP OF DEPTFORD
IN GLOUCESTER COUNTY, NEW JERSEY,
AMENDING SECTIONS 38, 38.1 and 38.2, OF
ARTICLE V OF THE GENERAL REGULATIONS
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, In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 *et seq.*, and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules; 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, 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 is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans and permits municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan to retain fees collected from non-residential development; and

WHEREAS, this ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

WHEREAS, COAH's Third Round Substantive Rules (*N.J.A.C. 5:97-1, et seq.*) contain requirements for the affirmative marketing of affordable units to the low and moderate income population; and

WHEREAS, COAH's Third Round Substantive Rules require the imposition of proper covenants and restrictions to ensure continued occupancy by low and moderate income households of affordable housing units; and

WHEREAS, the Township of Deptford desires to implement policies promulgated and adopted by COAH in its Third Round Substantive Rules, effective October 20, 2008, in an effort to foster the production of affordable housing opportunities for qualified low and moderate income households through the third housing cycle which extends from 2000 through 2018 pursuant to *N.J.A.C. 5:96 et seq.* and *N.J.A.C. 5:97 et seq.*;

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

Section 1. §6, Definitions, is hereby amended by adding and revising the following definitions:

Affordable Housing Development - A development included in the housing element and fair share plan, or proposed as an amendment to same, that may include, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

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

Development Fee - Money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*, as it may be amended or superseded, and utilized to provide affordable housing.

Equalized Assessed Value - 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 *N.J.S. 54:1-35a* through *54:1-35c*.

Green Building Strategies - Strategies that minimize the impact of development on the environment, 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 the availability of community services.

Section 2. §38, Affordable housing requirements, of the Unified Development Ordinance of the Township of Deptford is hereby revised to read as follows:

§ 38. Affordable Housing Controls and Affirmative Marketing Requirements.

A. Purpose. This section is designed to implement the New Jersey Fair Housing Act (*N.J.S.A.* 52:27D-301 et seq.) and the Township of Deptford's Housing Element of the Master Plan by ensuring that affordable housing created under the Act is occupied by low and moderate-income households for the appropriate period of time. The words, phrases, and terms herein shall be interpreted to have the same meanings and usages as in the Act and its related regulations, including but not limited to, Uniform Housing Affordability Controls (*N.J.A.C.* 5:80-26.1 et seq.) and the regulations of the New Jersey Council on Affordable Housing (*N.J.A.C.* 5:94-1 et seq.), as they may be amended or superseded. This section also implements the Township's growth share requirements and provides for the imposition of development fees. This section sets for the affirmative marketing requirements that are intended to create a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital, or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing.

B. Affordability Average; Bedroom Distribution.

1. In each affordable development, at least fifty percent (50%) of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate-income units.
2. 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 is no greater than twenty percent (20%) of the total low and moderate-income units;
 - b. At least thirty percent (30%) of all low and moderate-income units are two bedroom units;
 - c. At least twenty percent (20%) of all low and moderate-income units are three bedroom units; and
 - d. The remainder, if any, may be allocated at the discretion of the developer.

3. Age-restricted low and moderate-income units may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of age-restricted low and moderate-income units within the affordable development. The standard may be met by creating all one-bedroom units or by creating a two-bedroom unit for each efficiency unit.
4. The maximum rent for affordable units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income and the average rent for low and moderate-income units shall be affordable to households earning no more than fifty-two percent (52%) of median income. 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 ten percent (10%) of all low and moderate-income units shall be affordable to households earning no more than thirty percent (30%) of median income.
5. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income. Each affordable development shall achieve an affordability average of fifty-five percent (55%) for restricted ownership units. In achieving this affordability average, moderate income ownership units shall be available for at least three different prices for each bedroom type, and low income ownership units shall be available for at least two different prices for each bedroom type.
6. Affordable units shall utilize the same type of heating source as market units within the affordable development.
7. The facade of an affordable housing unit shall be indistinguishable from those of market units in terms of the use of exterior materials, windows, doors, reveal, roof pitch, color, or other material. Affordable housing units shall be interspersed with market rate housing to the greatest extent possible.
8. For inclusionary developments with a single housing tenure, the affordable housing units shall have the same tenure as the market housing units.

C. Occupancy Standards.

1. In determining the initial rents and initial sales prices for compliance with the affordable average requirements for restricted units other than assisted living facilities, 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;
 - e. A four bedroom unit shall be affordable to a six person household.
2. For assisted living facilities, 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 one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a two person household or to two one-person households.
3. In referring certified households to specific restricted units, to the extent feasible and without causing an undue delay in occupying the unit, the administrative agent shall strive to:
- a. Provide an occupant for each unit bedroom;
 - b. Provide children of different sex with separate bedrooms; and
 - c. Prevent more than two persons from occupying a single bedroom.

D. Ownership Units.

1. Each restricted ownership unit shall remain subject to the requirements of the Uniform Housing Affordability Controls (*N.J.A.C. 5:80-26.1 et seq.*) until the Township of Deptford elects to release the unit from such requirements pursuant to action taken in compliance with *N.J.A.C. 5:80-26.5(g)*. Prior to such municipal election, a restricted ownership unit shall remain subject to the requirements of *N.J.A.C. 5-80-26.5*, for a period of at least 30 years.
2. Each restricted ownership unit shall remain in compliance with and subject to the requirements of the Uniform Housing Affordability

Controls, *N.J.A.C. 5:80-26.5* for control periods, *N.J.A.C.5:80-26.6* for price restrictions, *N.J.A.C.5:80-26.7* for buyer income eligibility, *N.J.A.C.5:80-26.8* for limitations on indebtedness and subordination, *N.J.A.C.5:80-26.9* for capital improvements, and *N.J.A.C.5:80-26.10* for maintenance.

E. Rental Units.

1. Each restricted rental unit shall remain subject to the requirements of the Uniform Housing Affordability Controls until the Township of Deptford elects to release the unit from such requirement pursuant to action taken in compliance with *N.J.A.C.5:80-26.11(e)*. Prior to such a municipal election, a restricted rental unit shall remain subject to the requirements of *N.J.A.C.5:80-26.11*, for a period of 30 years.
2. Each restricted rental unit shall remain in compliance with and subject to the requirements of the Uniform Housing Affordability Controls, *N.J.A.C. 5:80-26.11* for control periods, *N.J.A.C. 5:80-26.12* for restrictions on rents, and *N.J.A.C. 5:80-26.13* for tenant income eligibility.

F. Administrative Agent.

1. Each income restricted unit identified in Deptford Township's Housing Element and Fair Share Plan shall have a designated administrative agent. The affordability controls set forth in this ordinance shall be administered and enforced by such administrative agent. The primary responsibility of the administrative agent shall be to ensure that the restricted units under administration are sold or rented, as applicable, only to low and moderate-income households. Among the responsibilities of the administrative agent are those outlined under *N.J.A.C. 5:80-26.14*. The Township of Deptford hereby designates the Housing Affordability Service in the NJ Department of Community Affairs as the designated administrative agent, or some other such administrative agent as may be approved by the NJ Department of Community Affairs, the NJ Housing Mortgage Finance Agency or COAH for the administration of affordability controls and other requirements pursuant to the Fair Housing Act.
2. The administrative agent shall have the responsibility to income qualify low and moderate-income households, to place income eligible households in low and moderate-income units upon initial occupancy, to provide for the initial occupancy of low and moderate-income units with income qualified households, to continue to qualify households for re-occupancy of units as they become vacant during the period of affordability controls, to assist with advertising and outreach to low and moderate income households, and to enforce the terms of the deed

restriction and mortgage loan. The administrative agent shall provide counseling services to low and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements and landlord/tenant law.

3. Procedures for changing administrative agents. In order to ensure an orderly transfer of control responsibility from a municipality to an administrative agent, from one administrative agent to another administrative agent, or other transfer, the requirements as set forth in *N.J.A.C. 5:80-26.17* shall apply as are necessary before or during the transition. The administrative agent's enforcement responsibility for implementing such practices and procedures shall not be delegated or otherwise transferred to any other party, except to a successor administrative agent.
 4. Enforcement. By accepting state funds for affordable housing purposes, or by submitting to the jurisdiction of COAH, Deptford Township shall be deemed to have delegated to its administrative agent the day-to-day responsibility for implementing practices and procedures designated to ensure effective compliance with the controls set forth in this Article. Deptford Township, however, shall retain the ultimate responsibility for ensuring effective compliance with the requirements as set forth in the Uniform Housing Affordability Controls (*N.J.A.C. 5:80-26.1 et seq.*).
- G. Municipal Housing Liaison. There is hereby created the position of Municipal Housing Liaison who shall be a municipal employee. The Township Council shall appoint the Municipal Housing Liaison by resolution. The Municipal Housing Liaison shall act as the municipality's representative between COAH, municipal officials, the Township's designated administrative agent and the developer or sponsor of affordable housing. The Municipal Housing Liaison shall be responsible for tracking the progress of affordable housing, addressing or designating a delegate to address inquiries regarding affordable housing from the public and COAH, and complying with COAH monitoring and reporting requirements.
- H. Affirmative Marketing.
1. The Township of Deptford's affirmative marketing plan is intended to address the requirements of *N.J.A.C. 5:80-26.15*. Deptford Township is located in COAH Housing Region 5 that consists of Burlington, Camden, and Gloucester Counties. The affirmative marketing program is a continuing program that shall meet the requirements set forth in this subsection.

2. The affirmative marketing plan is intended to be used by all developers of affordable housing restricted to low and moderate-income households located within the Township of Deptford. Information provided in the marketing of low and moderate-income units shall contain the name, address, directions (to the project), the number of units (including the number of sales and/or rental units), a range of prices or the price of sales and/or rental units, the name of the sales agent and/or rental manager, along with the location(s) and hours when applications may be obtained and directions to sales and/or rental office, a description of the size (in bedrooms) of the units and of the random selection method that shall be used to select occupants, a disclosure of required application fee(s), and the maximum income permitted to qualify for the housing units. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all of the affordable units have been leased or sold.
 3. Location of Applications. Applications, brochure(s), sign's, and/or poster(s) shall be located at the Deptford Municipal Building, Gloucester County Department of Human Services and respective sales and rental offices. Applications shall also be mailed to prospective applicants upon request.
 4. The affirmative marketing plan shall include the media and outreach sources to be used in advertising and publicizing the availability of affordable housing in Deptford Township.
 5. In implementing the affirmative marketing plan, each administrative agent shall designate an experienced staff agent approved by COAH to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit history, mortgage qualifications, rental lease agreements, and landlord/tenant law, as applicable. Alternatively, an administrative agent may refer applicants to an experienced agency approved by the U.S. Department of Housing and Urban Development to provide such counseling services.
 6. The Township shall also ensure that all original applicant and sales records of affordable units be returned to the municipality for reporting purposes and to aid with future resale. The Township shall retain the ultimate responsibility for the proper administration of the affirmative marketing program including initial sales and rentals and resale and rental.
- I. Household certification and random selection.

1. The administrative agent shall prepare a standardized form of certification and shall secure all information from applicant households necessary and appropriate to determine that restricted units are occupied by properly sized households with appropriate low or moderate income levels. No household may be referred to a restricted unit, or may receive a commitment with respect to a restricted unit, unless that household has received a signed, dated, and executed certification, as set forth in the Uniform Housing Affordability Controls (*N.J.A.C. 5:80-26.16*, Applications J and K, as applicable). An initial certification shall be valid for no more than 180 days unless a valid contract for sale or lease has been executed within that time period. In this event certification shall be valid until such time as the contract for sale or lease is ruled invalid and no occupancy has occurred. Certifications may be renewed in writing, at the request of the head of the certified household, for an additional 180 days at the administrative agent's discretion.
 2. When reviewing an applicant's household income to determine eligibility, the administrative agent shall make its determination in accordance with *N.J.A.C. 5:80-26.16*. The administrative agent may also require a household to produce documentation of household composition for determining the correct unit size and applicable income level.
 3. The administrative agent may withhold a certificate of eligibility as a result of the applicant's inability to demonstrate sufficient present assets for down payment or security deposit purposes. A certificate of eligibility may also be withheld by the administrative agent as a result of the applicant's inability to verify funds claimed as assets, household composition, or other facts represented. The administrative agent shall deny the certificate of eligibility should it be determined that any willful and material misstatement of fact has been made by an applicant seeking eligibility.
 - a. The administrative agent shall employ a random means of selecting households when matching certified applicants to available affordable units.
- J. Appeals from Decision of Administrative Agent. Appeals from all decisions of the administrative agent shall be filed in writing with the Executive Director of the New Jersey Housing and Mortgage Finance Agency. When acting in this capacity, the Executive Director may appoint one or more employees of the Agency, COAH and/or the Department of Community Affairs to assist him or her in rendering the final decision; whenever he or she, in his or her sole discretion, determines that committee participation would materially provide a fair and just disposition of the appeal. A written decision of the Executive Director upholding,

modifying or reversing an administrative agent's decision shall be a final administrative action.

Section 3. §38.1, Impact Fee - Housing, is hereby revised to read as follows:

§38.1 Development Impact Fee

A. Purpose. This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to *N.J.A.C. 5:97-6*. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework *N.J.A.C. 5:97-1 et seq.* and any words and phrases shall have the same meanings they have pursuant to *N.J.A.C. 5:97-1.4*, as such definitions may from time to time be amended.

B. Residential Development Fees.

1. Developers shall pay a fee of one and one-half percent (1.5%) of the equalized assessed value of residential development, provided no increased density is permitted.
2. When an increase in residential density pursuant to *N.J.S.A. 40:55D-70d(5)* has been granted by the Zoning Board of Adjustment, developers may be required to pay a development fee of six (6) percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

C. Non-residential Development Fees.

1. Regardless of zoning district, developers of non-residential uses shall pay a fee equal to two and one-half percent (2½ %) of the equalized assessed value of the land and improvements for all new non-residential construction on an unimproved lot or lots, except for certain non-residential
2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

D. Eligible Exactions, Ineligible Exactions and Exemptions.

1. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
2. Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued. This requirement shall not affect the obligation of developers to pay a fee imposed by any applicable predecessor ordinance.
3. Development fees shall be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use that requires an application for development or for the construction of an entirely new building. The development fee shall be calculated on the increase in the equalized assessed value of the improved or constructed structure.

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

E. Collection of Fees.

1. Upon the passage of the resolution of memorialization granting a preliminary, final or other applicable approval for a development, the Planning Board or Zoning Board of Adjustment Secretary shall notify the Construction Code Official of the approving authority's action.
2. Once all prior approvals have been obtained, the person requesting a building permit application for a non-residential development, only, shall also be provided with a copy of Form N-RDF "State of New Jersey Non-

Residential Development Certification/ Exemption” as part of the building permit application. Form N-RDF shall be completed as per the instructions provided. The Construction Code Official shall verify the information submitted by the non-residential developer or his designee. The Deptford Township Tax Assessor shall verify any requested exemptions and shall prepare estimated and final assessments as per the instructions provided in Form N-RDF.

3. The Construction Code Official shall notify the Township Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
4. Within ninety (90) days of receipt of that notice, the Township Tax Assessor shall provide an estimate of the equalized assessed value of the development based on the architectural and Board approved plans filed.
5. The Construction Code Official shall notify the Township Tax Assessor of any and all requests for the scheduling of a final inspection on 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 of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
7. Should the Township Tax Assessor fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in *N.J.S. 40:55D-8.6*, as it may be amended or superseded.
8. Fifty percent (50%) of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
9. Appeal of development fees.
 - a. A developer may challenge residential development fees imposed by filing a challenge with the Gloucester County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account

by the Chief Financial Officer of Deptford Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, *R.S.54:48-1 et seq.*, within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

- b. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the NJ 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 Chief Financial Officer of Deptford Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, *R.S.54:48-1 et seq.*, within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

F. Affordable Housing Trust Fund.

1. There is hereby created a separate, interest-bearing housing trust fund in TD Bank, N.A., or as such depository may be changed by action of the governing body in accordance with –F.3 hereinbelow, for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this ordinance shall be deposited into this fund. Nothing herein shall affect the continuation of existing affordable housing trust accounts.
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 affordable units.
 - b. Developer contributed funds to ensure that ten percent (10%) of the adaptable entrances in a townhouse or other multi-story attached development are accessible to the handicapped.
 - 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.
 - g. Any other funds collected in connection with Deptford's affordable housing program.
3. Within seven (7) days from the opening of the trust fund account, or change in such account by action of the governing body, the Township of Deptford shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the municipality's financial institution, and COAH to permit the state agency to direct the disbursement of the funds as provided for in *N.J.A.C. 5:94-6.16(b)*.

G. Use of Funds.

1. General. No funds shall be expended from the affordable housing trust fund unless the expenditure conforms to a spending plan approved by COAH. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH. This provision shall not prevent the municipality from disbursing funds pursuant to any spending plan still in effect prior to the approval of a subsequent spending plan.
2. The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by COAH to address the municipality's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to *N.J.A.C. 5:97-8.7* through *-8.9* and specified in the approved spending plan.
3. Funds shall not be expended to reimburse Deptford Township for past housing activities.

4. At least thirty percent (30%) of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal housing plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of median income by region, or as determined through the affordability assistance calculations of an approved spending plan.

H. Affordability Assistance.

1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
2. Affordability assistance to households earning thirty percent (30%) or less of median income may include buying down the cost of low or moderate income units in the municipal housing plan to make them affordable to such households.
3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

I. Limit on Administrative Expenses. No more than twenty (20%) percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than twenty (20%) percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action shall not be eligible uses of the affordable housing trust fund.

J. Monitoring of Affordable Housing. The municipal housing liaison or secondary designee shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing

program loans, and any other funds collected in connection with the municipality's housing program, as well as to the expenditure of revenues and implementation of the housing plan.

Section 4. §38.2, Growth Share Affordable Housing Obligation, is hereby repealed.

Section 5. Continuation, All Ordinances. In all other respects the Deptford Code of Ordinances, as amended and supplemented, shall remain in full force and effect.

Section 6. 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 7. 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 8. 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 9. Enactment. This Ordinance shall take effect twenty (20) days after final passage and publication pursuant to *N.J.S.A. 40:69A-181*, notice to the Gloucester County Planning Board within thirty (30) days pursuant to *N.J.S.A. 40:55D-15b* and approval of the NJ Council on Affordable Housing pursuant to *N.J.A.C. 5:96-5.1*.

Section 10. Use of Funds. The Township of Deptford shall not spend development fees received until the NJ Council on Affordable Housing has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*, except as permitted by COAH's previous approval of a spending plan.



TOWNSHIP OF DEPTFORD

MAYOR PAUL MEDANY

ATTEST:

DINA L. ZAWADSKI, TOWNSHIP CLERK

CERTIFICATION

The above Ordinance was introduced and passed upon first reading at a meeting of the Township Council of the Township of Deptford held on the 1st day of February, 2010 and will be taken up for final consideration and passage at the Work Session 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 22nd day of February, 2010 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, TOWNSHIP CLERK

Introduction

RECORD OF VOTE						
Council Member	Resolution No.	Ordinance No.	Yes	No	Abstain	Absent
		0.3.10				
Medany						
Hufnell						
DiMarco						
Lamb						
Love						
Schocklin						
Scott						

Adoption

RECORD OF VOTE						
Council Member	Resolution No.	Ordinance No.	Yes	No	Abstain	Absent
		0.3.10				
Medany						
Hufnell						
DiMarco						
Lamb						
Love						
Schocklin						
Scott						