

55-351. REGULATIONS FOR DEVELOPMENT FEE AND HOUSING TRUST FUND.

- A. *Purpose.* The purpose of the mandatory development fee is to provide funding for the Township's Housing Element and Fair Share Plan approved by the Township Committee of the Township of Barnegat.
- B. *Mandatory Development Fees.*
- (1) **Residential development fees - Amount:** All developers of residential major subdivisions or residential site plans shall pay a mandatory development fee equal to one percent (1%) of the equalized assessed valuation for each residential unit constructed. This mandatory fee shall be calculated as follows: 1% x equalized assessed valuation x number of units. [Amended 7-5-05 by Ord. No. 2005-41]
 - (2) **Non-residential development fee - Amount:** All nonresidential developers requiring Major Site Plan approval, shall pay a mandatory development fee equal to two percent (2%) of the total equalized assessed valuation of the non-residential development, provided, however, no development fee shall be required where the total equalized assessed

¹ Article XXII, Affordable Housing Requirements, was added 7-21-97 by Ord. No. 1997-26; amended 2-2-98 by Ord. No. 1998-1 § 5 and Ord. No. 1998-2 § 5.

value of the development is less than fifteen thousand (\$15,000.00) dollars as established by the Tax Assessor. This mandatory fee shall be calculated as follows: 2.0% x total equalized assessed valuation. [Amended 7-5-05 by Ord. No. 200541]

(3) Timing of payments.

(a) Fifty percent (50%) of the total mandatory development fee owed to Barnegat Township whether for residential or non-residential development, shall be paid prior to the issuance of any building permit required in connection with the development, and shall be calculated as follows:

[1] For residential developments, the fifty percent (50%) payment required prior to the issuance of any building permit shall be calculated using an estimated equalized valuation of each residential unit as determined by the Barnegat Township Tax Assessor.

[2] For non-residential developments, the fifty percent (50%) payment required prior to the issuance of any building permit shall be calculated using an estimated total equalized assessed valuation of the non-residential development as determined by the Barnegat Township Tax Assessor.

[3] The remaining portion of the development fee shall be paid prior to the issuance of any certificate of occupancy for any development or any part thereof, whether residential or non-residential, and shall be calculated using the actual assessed valuation of

the development as determined by the Barnegat Township Tax Assessor.

- [4] Because the initial payment required prior to the issuance of a building permit is calculated using an estimated assessed valuation based on estimates for construction costs, the following adjustments are permitted to compensate for differences between the estimated assessed valuation and the actual assessed valuation.

[a] If the estimated assessed valuation used to calculate the initial fifty percent (50%) payment was over-estimated or under-estimated causing the actual assessed valuation to be less than or greater than the estimated assessed valuation used to calculate the initial fifty percent (50%) payment, the developer's certificate of occupancy payment shall be equal to the difference between the actual assessed valuation and the initial fifty percent (50%) payment as determined by the Barnegat Township Tax Assessor.

- [5] The Barnegat Township Tax Assessor shall have fifteen (15) working days to prepare the assessed valuations required in this section.

(4) Exemption, eligible exactions and ineligible exactions.

(a) Inclusionary developments, as defined herein, are exempt from development fees.

- (b) Developments that have received preliminary or final approval, prior to the effective date of this Article, are exempt from development fees during the effective period of said approval, unless the developer seeks a substantial change in the approvals granted.
- (c) Low and moderate income dwelling units shall be exempt from paying development fees.
- (d) Development that expands an existing structure shall pay a development fee where applicable. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.
- (e) In accordance with N.J.S.A. 40:55D-8, any charitable, philanthropic, fraternal or religious non-profit organization holding tax exempt status under the Federal Internal Revenue Code of 1954 (26 U.S.C. Section 501(c) or (d)) shall be exempt from the payment of a development fee.

C. Affordable Housing Trust Fund.

- (1) All mandatory development fees collected pursuant to this Article shall be deposited in the interest bearing escrow account entitled the "Affordable Housing Trust Fund: Mandatory Fee Account."
- (2) If the Court determines that Barnegat Township's spending is not in conformance with COAH's rules on development fees, the Court is authorized to direct the manner in which all development fees collected pursuant to this Article shall be expended.

D. Use of Funds.

- (1) Money deposited in the Affordable Housing Trust Fund may be used for any activity approved for

addressing the Township's low and moderate income housing obligation. Such activities may include, but are not necessarily limited to: housing rehabilitation; new construction; regional contribution agreements; the purchase of land for low and moderate income housing; extensions and/or improvements of road and infrastructures to low and moderate income housing sites; assistance designed to render units to be more affordable to low and moderate income people; and administrative costs necessary to implement the Township's Housing Element. The expenditure of all money shall conform to the approved spending plan.

- (2) Unless specifically waived or unless fees are used to fund a Regional Contribution Agreement (RCA) or new construction project, not less than thirty percent (30%) of the revenues collected from development fees collected pursuant to this Article shall be devoted to rendering existing units more affordable to low and moderate income households by funding such activities as down payment assistance, low interest loans and rental assistance.
- (3) No more than twenty percent (20%) of the revenues collected from development fees collected pursuant to this Article shall be devoted to administrative expenses incurred by the Township in addressing its Fair Share obligation.