

**BOROUGH OF ALLENTOWN  
COUNTY OF MONMOUTH  
STATE OF NEW JERSEY**

**ORDINANCE 09-17**

**AN ORDINANCE AMENDING CHAPTER XXXIII, AFFORDABLE HOUSING  
REGULATIONS, OF THE CODE OF THE BOROUGH OF ALLENTOWN,  
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**WHEREAS**, the Borough of Allentown Planning/Zoning adopted a Housing Plan Element of the Borough Master Plan and a Fair Share Plan on December 1, 2008; and

**WHEREAS**, the Borough Council endorsed the Housing Plan and Fair Share Plan on December 9, 2008; and

**WHEREAS**, the Borough Council finds that the Chapter XXXIII, Affordable Regulations, of the Borough Code should be amended to ensure that multi-family residential developments that create new dwelling units provide for inclusionary units and/or provide an affordable housing development fee; and

**WHEREAS**, the Borough Council finds that the Borough Affordable Housing Regulations should be amended to require that single family home developments consisting of more than one residential dwelling unit as a result of the subdivision of one or more parcels of land to pay a development fee for new units in excess of those permitted by preexisting zoning; and

**NOW, THEREFORE, BE IT ORDAINED** BY THE Borough Council of the Borough of Allentown in the County of Monmouth and State of New Jersey as follows:

**SECTION 1.** Chapter XXXIII, Affordable Housing Regulations, Section 33-2, Definitions, is amended to add the following term:

Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

**SECTION 2.** Chapter XXXIII, Affordable Housing Regulations, Section 33-3, Reserved, is hereby amended to read as follows:

**“33-3 AFFORDABLE HOUSING TRUST FUND AND NEW DEVELOPMENT**

*a. Affordable Housing Trust Fund*

1. There is hereby created a separate, interest-bearing affordable housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of affordable housing units with extinguished controls.

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 make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached 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 Allentown Borough's affordable housing program.
3. Within seven days from the opening of the affordable housing trust fund account, Allentown Borough shall provide the to the New Jersey Department of Community Affairs or to the Court with written authorization, in the form of a three-party escrow agreement between the Borough, TD Bank, and the Department of Community Affairs or Court to permit the Department or Court to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
4. All interest accrued in the affordable housing trust fund shall only be used on eligible affordable housing activities approved by the Department of Community Affairs or the Court.
5. Use of affordable housing trust funds
  - (a) The expenditure of all funds shall conform to a spending plan approved by the Department of Community Affairs or the Court. Funds deposited in the affordable housing trust fund may be used for any activity approved by the Department or the Court to address the Allentown Borough 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 apartments, market to affordable housing, 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.
  - (b) At least 30 percent 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 fair share plan. One-third of the affordability assistance portion of development fees collected shall be used to

provide affordability assistance to those households earning 30 percent or less of median income by region.

- (c) Units with extinguished controls shall be exempt from the affordability assistance requirement.
  - (d) Allentown Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
  - (e) No more than 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 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 the Department's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.
6. Monitoring. Allentown Borough shall complete and return to the Department of Community Affairs 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 Allentown Borough's housing program, as well as to the expenditure of revenues and implementation of the approved by the court. All monitoring reports shall be completed on forms designed by the Department.
7. Ongoing collection of fees. The ability for Allentown Borough to impose, collect and expend development fees shall expire with its judgment of compliance unless Allentown Borough has filed an adopted Housing Element and Fair Share Plan with the Department of Community Affairs or the Court, has petitioned for substantive certification or Court judgment compliance, and has received the Department's or Court's approval of its development fee ordinance. If Allentown Borough fails to renew its ability to impose and collect development fees prior to the expiration of 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). Allentown Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Allentown Borough retroactively impose a development fee on such a development. Allentown Borough shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

b. *New Residential Developments*

1. All new development of five or more multi-family residential dwelling units and all redeveloped and/or reconstructed multi-family residential developments that result in the addition of five or more new residential units shall provide an inclusionary component of 20% of the new dwelling units consistent with provisions of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and the regulations within this Chapter. For developments of five or more multi-family residential units which result in a fraction of an affordable dwelling unit, the developer shall provide a contribution to the Borough Housing Trust Fund of six (6) percent of the assessed value of those dwelling units exceeding five dwelling units.
2. All single family residential developments that create new residential dwelling units as a result of the subdivision of one or more parcels of land, the developer shall provide a contribution of 1.5 percent of the assessed value of the additional or new dwelling units resulting from the subdivision to the Borough Housing Trust Fund , and six (6) percent of the assessed value for those dwelling units exceeding the number of dwelling units permitted by the pre-existing zoning for the parcel or parcels comprising the development.”

**SECTION 3.** All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** If any section, subparagraph, sentence, clause, or phase of this Ordinance shall be held to be invalid, such decision shall not invalidate any remaining portion of this Ordinance.

**SECTION 5.** This Ordinance shall take effect immediately upon passage, publication according to law and filing with the Monmouth County Planning Board in accordance with N.J.S.A. 40:55D-16.

**SECTION 6.** A copy of this Ordinance shall be filed with New Jersey Council on Affordable Housing and/or the Court in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97.

**SECTION 7.** A copy of this Ordinance shall be filed with the Borough of Allentown Chief Financial Officer, Tax Assessor, Zoning Officer, Code Enforcement Official, Construction Official, Municipal Housing Liaison, Planning Board /Board of Adjustment, Planner and Engineer

**ATTEST:**

  
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GREGORY WESTFALL, MAYOR

DATED: 7/21/2017

  
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LAURIE A. GAVIN, CLERK

DATED: 7/21/2017

**NOTICE**

**PUBLIC NOTICE** is hereby given that the foregoing ordinance was introduced at a public meeting of the Borough Council of the Borough of Allentown, in the County of Monmouth and State of New Jersey on June 27, 2017 and was then read for the first time. The said ordinance will be further considered for final passage by the Borough Council in the Borough Hall at 8 North Main Street, Allentown, New Jersey at 7:00 p.m. on July 18, 2017. At such time and place or any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance.

Laurie A. Gavin, MAS, RMC, CMR  
Borough Clerk