

ORDINANCE 2024-05

AN ORDINANCE OF THE TOWNSHIP OF OLDMANS,
COUNTY OF SALEM AND STATE OF NEW JERSEY, TO
REVISE CHAPTER 110 OF THE TOWNSHIP OF OLDMANS
CODE TO IMPLEMENT AFFORDABLE HOUSING
REQUIREMENTS IN ACCORDANCE WITH THE ORDER OF
THE NEW JERSEY SUPERIOR COURT

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 Township Committee of the Township of Oldmans is desirous of ensuring the proper implementation of the Fair Housing Act and associated rules through the adoption of affordable housing regulations by the governing body; and

WHEREAS, the Township of Oldmans seeks to implement policies established by the New Jersey Supreme Court in In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (Mount Laurel IV) to foster affordable housing opportunities for the production of dwellings and their occupancy by low- and moderate-income households.

WHEREAS, the Mayor and Township Committee recognize the need to revise provisions for affordable housing within the Code of the Township of Oldmans to implement the Housing Element and Fair Share Plan; and

WHEREAS, the Township Committee formally refers this Ordinance to the Planning Board for examination, discussion, and recommendations in accordance with N.J.S.A. 40:55D-26 for consistency with the adopted Master Plan;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Oldmans, Salem County, New Jersey, as follows¹:

Section 1. §110-10.B, Definitions, shall be amended, by adding or amending the following words or phrases to have the meanings indicated:

Municipal Housing Liaison – A municipal employee annually appointed by resolution of the governing body, as established by Chapter 30 of the Code of the Township of Oldmans, responsible for the tracking and reporting of affordable housing units to the appropriate

¹ - Wording in brackets, [thus] is editorial comment and not intended for adoption.

authorities and parties, overseeing the administration of affordability controls, the Affirmative Marketing Plan, and supervising any contracted Administrative Agent.

Section 2. §110-66, Development Fees, shall be revised to read as follows:

§ 110-66. Development Fees.

A. Purpose and General Provisions.

- (1) This section establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with regulations promulgated by the NJ Council of Affordable Housing (COAH) in response to N.J.S.A. 52:27D-329.2 and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through -8.7). Fees collected pursuant to this Section shall be used for the sole purpose of providing very low, low- and moderate-income housing in accordance with a Spending Plan as approved by Order of the Superior Court, replacing a previous 2006 COAH-approved ordinance.
- (2) The Township of Oldmans shall spend development fees only in accordance with the Spending Plan in conformance with N.J.A.C. 5:97-8.

B. Residential Development Fees.

- (1) Imposed fees. [Unchanged]
- (2) Eligible exactions, ineligible exactions and exemptions for residential development.
 - a. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units, or by redevelopment agreement or other agreement with the Township of Oldmans, shall be exempt from the payment of development fees.
 - b. Developments that received preliminary or final site plan or subdivision approval prior to December 6, 2006 shall be exempt from the payment of 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. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use resulting in an increase in the assessed value of the property of \$20,000 or more, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development

fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

- d. No development fee shall be collected for a demolition and replacement of a residential building resulting from fire, war, or a natural disaster, shall be exempt from the payment of development fees.
- e. 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, shall be exempt from the payment of development fees.
- f. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places, shall be exempt from the payment of development fees.
- g. Nonprofit organizations constructing residential projects which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code shall be exempted from paying a development fee, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempt from the payment of development fees.
- h. Federal, state, county, and local governments for their own purposes, shall be exempt from the payment of development fees.
- i. 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.

C. Non-Residential Development Fees.

(1) Imposition of fees. [Unchanged]

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

- a. The non-residential portion of a mixed-use inclusionary or market-rate development shall be subject to a 2.5% development fee, unless otherwise exempted below.
- b. The 2.5% fee shall not apply to an increase in equalized assessed value resulting

from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

- c. Non-residential developments shall be exempt from the payment of non-residential 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 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 non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as 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.
- e. If a property that 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 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Oldmans as a lien against the real property of the owner.
- f. Federal, state, county, and local governments for their own purposes, shall be exempt from the payment of development fees.

D. Collection of Fees.

- (1) [Unchanged]
- (2) [Unchanged]
- (3) [Unchanged]
- (4) [Unchanged]
- (5) [Unchanged]
- (6) [Unchanged]
- (7) [Unchanged]
- (8) Except as provided in -C(1)(c) above, fifty percent (50%) of the 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 certificate of occupancy

- E. Appeal of development fees. [Unchanged]
- F. Affordable Housing Trust Fund
 - (1) [Unchanged].
 - (2) [Unchanged].
 - (3) [Unchanged].
 - (4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by the Court, or successor agency to COAH.
- G. Use of Funds.
 - (1) The expenditure of all funds shall conform to a Spending Plan approved by the Court or successor agency to COAH. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Oldmans' 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; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market-to- affordable program; 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; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
 - (2) [Unchanged]
 - (3) [Unchanged]
 - (4) [Unchanged]
 - a. [Unchanged]
 - b. [Unchanged]
 - c. Payments in lieu of constructing affordable units on site, if permitted by ordinance or by agreement with the Township of Oldmans, and funds from the sale of units

with extinguished controls shall be exempt from the affordability assistance requirement.

(5) The Township of Oldmans 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.

(6) [Unchanged].

H. Ongoing Collection of Fees. [Unchanged].

Section 3. Article X, Affordable Housing Procedures, of Chapter 110, Land Development, shall be modified to as follows:

Article X. Affordable Housing Procedures

§ 110-67. Purpose. [Unchanged]

§ 110-68. General Provisions. [Unchanged]

§ 110-69. Township Administrative Agent and Other Administrative Agents. [Unchanged]

§ 110-70. Affirmative Marketing. [Unchanged]

§ 110-71. Monitoring and Reporting Requirements

- A. Unit monitoring. By February 15 of each year, the Municipal Housing Liaison shall complete and return to COAH, its successor, or court of competent jurisdiction all forms necessary for monitoring requirements related to dwelling units in affordable housing projects and 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 Township of Oldmans' approved housing program, as well as to the expenditure of revenues and implementation of the approved plan.
- B. Affordable housing trust fund monitoring. By February 15 of each year, the Township shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (NJDC), Council on Affordable Housing (COAH), or Local Government Services (NJLGS), 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 NJDC, COAH, or 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. The schedule for the reporting of this information shall be as set forth in the most recent settlement agreement between the

Township of Oldmans and FSHC, as long as such agreement remains operative.

- C. Very low-income unit monitoring. As required by N.J.S.A. 52:27D-329.1, by January 31, 2025, the Township will post on its municipal website a status report as to its satisfaction of its very-low-income requirements, including its family very-low-income requirements, and any other entity as directed by the Court. Such posting shall invite any interested party to submit comments to the municipality on the issue of whether the municipality has complied with its very-low-income and family very-low-income housing obligations.

§ 110-72. New Construction

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- A. The following requirements shall apply to all new or planned developments that contain low- and moderate-income housing units:

- (1) [Unchanged]
- (2) Final site plan or subdivision approval for any inclusionary development shall be contingent upon the affordable housing development meeting the following phasing schedule for low- and moderate-income units, whether developed in one stage or more stages. The initial issuance of certificates of occupancy for market units shall be linked to the issuance of certificates of occupancy for affordable units. Prior to the issuance of the certificates of occupancy for market units, certificates of occupancy for affordable units shall be required in the following minimum ratios:

Required Percentage of Affordable Units to Market Units

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Very Low-, Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

- (3) [Unchanged]
- (4) [Unchanged]
- (5) [Unchanged]

(6) [Unchanged]

(7) [Unchanged]

B. [Unchanged]

C. Accessibility Requirements. [Unchanged]

D. Income and Bedroom Distributions. [Unchanged]

E. Occupancy Standards. [Unchanged]

§ 110-73. Income Limits; Maximum Rents and Sales Prices. [Unchanged]

§ 110-74. Requirements for Restricted Ownership Units. [Unchanged]

§ 110-75. Requirements for Restricted Rental Units. [Unchanged]

§ 110-76. Requirements for Alternative Living Arrangements. [Unchanged]

Section 4. §110-77, Enforcement of Affordable Housing Regulations; Appeals, shall be renumbered §110-78, but otherwise shall remain unchanged.

Section 5. §110-77, shall be replaced with, Affordable Housing Set-Aside, as follows:

§ 110-77. Mandatory Affordable Housing Set-Aside

A. A mandatory affordable housing set-aside requirement shall apply beginning on June 1, 2024 to any residential development, including the residential portion of a mixed-use project, that consists of five (5) or more new residential units at a density of six (6) units per acre or greater, or equivalent, which results in whole or in part from: (i), a municipal rezoning or zoning amendment; (ii), any variance pursuant to N.J.S.A. 40:55D-70(d), including but not limited to any use variance or a density variance increasing the permissible density; or (iii), the adoption of a new or amended redevelopment plan or rehabilitation plan. The set-aside shall be twenty percent (20%) where the affordable units are provided as for-sale units and fifteen percent (15%) where the affordable units are provided as rental units. This section shall not apply to any 100% affordable housing development or inclusionary development as included within the adopted Housing Element and Fair Share Plan as an affordable housing site. Any development to which this mandatory affordable housing set-aside requirement applies shall be exempt from the payment of development fees required under §110-66 of this Chapter.

B. The following terms shall apply to any residential development subject to the mandatory affordable housing set-aside:

- (1) All subdivision and site plan approvals of qualifying development shall be conditioned upon compliance with the provisions of the mandatory affordable housing set-aside.
- (2) No subdivision shall be permitted or approved for the purpose of avoiding compliance with the mandatory affordable housing set-aside. A developer may not, for example but not by way of limitation, subdivide a project into two lots and then plan each of them to produce a number of units below the threshold as established in -78.A. The approving authority may impose any reasonable conditions to ensure such compliance.
- (3) 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 0.2 or greater and may be rounded down if the fractional amount is less than 0.2. The developer may provide a payment in lieu of constructing affordable units for the fraction of a unit less than 0.2. The payment in lieu shall be based on the amounts established in N.J.A.C. 5:97-6.4(c).
- (4) The very-low-income affordable units shall be proportionately distributed within each bedroom distribution. In a family non-age-restricted development, at no time shall the number of one-bedroom very-low-income units exceed the number of three-bedroom very-low-income units.
- (5) The mandatory affordable housing set-aside shall not give any developer the right to any rezoning, variance, redevelopment designation or redevelopment or rehabilitation plan approval, or any other such relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation, redevelopment or rehabilitation plan approval, or other such or further relief.
- (6) Nothing herein precludes the municipality from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this Ordinance.
- (7) Nothing herein shall impose an obligation on non-residential development, including the non-residential portion of a mixed-use development, subject to the State Non-Residential Development Fee Act, N.J.S.A. 40:45D-8.1, et seq. Nevertheless, all residential development, including the residential portion of a mixed-use development, shall comply with the provisions of this section.

Section 6. Repealer. All ordinances or code provisions or parts thereof inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

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 Oldmans, then the restriction which imposes the greater limitation shall be enforced.

Section 8. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment

shall not affect, impair or invalidate the remainder of this ordinance.

Section 9. Effective Date. This ordinance shall take effect upon transmittal to the Salem County Planning Board and its passage and publication, as required by law.

Introduction: April 10, 2024
Adoption: May 8, 2024

Township of Oldmans

David Murphy, Mayor

Attest:

Melinda Taylor, Municipal Clerk

shall not affect, impair or invalidate the remainder of this ordinance.

Section 9. Effective Date. This ordinance shall take effect upon transmittal to the Salem County Planning Board and its passage and publication, as required by law.

Introduction: April 10, 2024

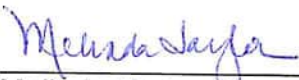
Adoption: May 8, 2024

Township of Oldmans



David Murphy, Mayor

Attest:



Melinda Taylor, Municipal Clerk

OLDMANS TOWNSHIP
RESOLUTION 2024-68

Ordinance 2024-05 was introduced for first reading and approval at a regular meeting of the Oldmans Township Committee held on April 10, 2024 at 7:00 PM in the Oldmans Township Municipal Building, 40 Freed Road, Pedricktown, NJ 08067, and after posting and publication according to law it will be presented for public hearing and adoption on May 8, 2024 at 7:00pm at a meeting of the Oldmans Township Committee.



Melinda Taylor, Municipal Clerk



David Murphy, Mayor

PUBLIC NOTICE
OLDMANS TOWNSHIP
ORDINANCE 2024-05
REVISE CHAPTER 110 OF THE OLD-
MANS TOWNSHIP CODE TO IMPLEMENT
AFFORDABLE HOUSING REQUIREMENTS
IN ACCORDANCE WITH THE ORDER OF
THE NEW JERSEY SUPERIOR COURT
Notice is hereby given that the fore-
going proposed Ordinance was intro-
duced and passed by the Township
Committee of the Township of Oldmans
at a regular meeting which was held on
Wednesday, April 10, 2024 and that a
public hearing upon the said Ordinance
will be conducted by the Township Com-
mittee at a meeting on Wednesday, May
8, 2024 at 7:00 pm at the Township Hall,
Pedricktown, NJ.
Melinda Taylor
Municipal Clerk
Cost: \$22.87
4/15/24 1t (10854141)

**Oldmans Township
Resolution 2024-79**

WHEREAS, Ordinance No. 2024-5 entitled "Revise Chapter 110 of the Oldmans Township Code to Implement Affordable Housing Requirements in Accordance with the Order of the New Jersey Superior Court" passed on first reading on Wednesday, April 10, 2024; and

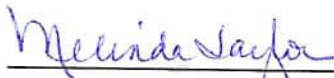
WHEREAS, public hearing has been held thereon;

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Oldmans, County of Salem and State of New Jersey that the Ordinance be finally adopted and that said notice of its adoption, by title only, be published in South Jersey Times in accordance with law.

Dated: May 8, 2024

Attest:

OLDMANS TOWNSHIP



Melinda Taylor, Municipal Clerk



David Murphy, Mayor

PUBLIC NOTICE

OLDMANS TOWNSHIP
ORDINANCE 2024-05

AMENDING OLDMANS TOWNSHP
LAND USE CHAPTER 110 TO IMPLEMENT
AFFORDABLE HOUSING REQUIREMENTS
IN ACCORDANCE WITH THE ORDER OF
THE NEW JERSEY SUPERIOR COURT

The foregoing named Ordinance
was duly adopted at a meeting of the
Township Committee of the Township of
Oldmans held Wednesday, May 8, 2024
at 7:00 pm.

Melinda Taylor
Municipal Clerk

Cost: \$18.93
5/13/2024 1T (10866156)