

**BOROUGH OF MANASQUAN
ORDINANCE NO. 1934- 04**

AN ORDINANCE SUPPLEMENTING AND AMENDING
CHAPTER 35 (ZONING) OF THE MUNICIPAL CODE TO
ESTABLISH AFFORDABLE HOUSING REGULATIONS IN
THE BOROUGH OF MANASQUAN, MONMOUTH
COUNTY, NEW JERSEY.

BE IT ORDAINED, by the Borough Council of the Borough of Manasquan, in
the County of Monmouth and State of New Jersey, as follows:

SECTION 1. Purpose. The purpose of this ordinance is to adopt affordable
housing regulations for new residential development that includes affordable housing
units in the Borough Manasquan in accordance with the Housing Plan and Fair Share
Plan for Affordable Housing and New Jersey Council on Affordable Housing Rules
pertaining to affordable housing units.

SECTION 2. A new Section entitled "Affordable Housing Regulations" is
established as follows:

AFFORDABLE HOUSING REGULATIONS

A. This section sets forth regulations regarding low and moderate income
housing units in the Borough of Manasquan ("Manasquan") that are consistent
with the provisions of N.J.A.C. 5:93 et seq. as effective on June 6, 1994.
These rules are adopted pursuant to the Fair Housing Act of 1985 and
Manasquan's constitutional obligation to provide for its fair share of low and
moderate income housing.

(1) The fair share obligation will be divided equally between low and
moderate income households in accordance with N.J.A.C. 5:93-2.20.

(2) Except for inclusionary developments constructed pursuant to low
income tax credit regulations: at least one-half of all units within each
inclusionary development will be affordable to low income households;
and, at least one-half of all rental units will be affordable to low income

households; and at least one-third of all units in each bedroom distribution pursuant to N.J.A.C. 5:93-7.3 will be affordable to low income households.

(3) Inclusionary developments that are not age-restricted will be constructed in conjunction with realistic market demands so that:

(a) the combination of efficiency and one bedroom units is at least ten (10) percent and no greater than twenty (20) percent of the total low and moderate income units; and

(b) at least thirty (30) percent of all low and moderate income units are two bedroom units, and

(c) at least twenty (20) percent of all low and moderate income units are three bedroom units; and

(d) low and moderate income units that are age-restricted may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of age-restricted low and moderate income units within the inclusionary development.

(4) In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:

(a) efficiency units will be affordable to a 1 person household; and

(b) one bedroom units will be affordable to 1.5 person households; and

(c) two bedroom units will be affordable to 3 person households; and

(d) three bedroom units will be affordable to 4.5 person households; and

(e) median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD in accordance with N.J.A.C. 5:93-7.4(b); and

(f) the maximum sales prices of low and moderate income units within each inclusionary development will be affordable to households earning no more than seventy (70) percent of median income. In averaging an affordability range of fifty-five (55) percent for sales units, moderate income sales units shall be available for at least three different prices and low income sales units to be available for at least two different prices; and

(g) for both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development; and

(h) low income units will be reserved for households with a gross household income less or equal to fifty (50) percent of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than eighty (80) percent of the median income approved by COAH in accordance with N.J.A.C. 5:93-7.4(g); and

(i) the regulations outlined in N.J.A.C. 5:93-9.15 and 9.16 will be applicable for purchased and rental units.

(5) For rental units, developers and/or municipal sponsors may:

(a) establish one rent for a low income unit and one for a moderate income unit for each bedroom distribution; and

(b) gross rents, including an allowance for tenant-paid utilities, will be established so as not to exceed thirty (30) percent of the gross monthly income of the appropriate household size in accordance with N.J.A.C. 5:93-7.4(f). The tenant-paid utility allowance will be consistent with the utility allowance approved by HUD for use in New Jersey; and

(c) the maximum rents of low and moderate income units within each inclusionary development will be affordable to households earning no more than sixty (60) percent of median income. In averaging an affordability range of fifty-two (52) percent for rental units, developers and/or municipal sponsors of rental units may establish one rent for a low income unit and one rent for a moderate income unit for each bedroom distribution.

(6) For sale units:

(a) the initial price of a low and moderate income owner-occupied for-sale housing unit will be established so that after a down payment of five (5) percent, the monthly principal interest, homeowner and private mortgage insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee do not exceed twenty-eight (28) percent of the eligible gross monthly income; and

(b) master deeds of inclusionary developments will regulate condominium or homeowner association fees or special assessments of low and moderate, income purchasers at fifty (50) percent of those paid by market purchasers. This percentage is consistent with the requirements of N.J.A.C. 5:93-7.4(e). Once established within the master deed, the fifty (50) percent percentage will not be amended without prior approval from COAH; and

(c) Manasquan will follow the general provisions concerning uniform deed restriction, liens and enforcement through certificates of occupancy or reoccupancy on sale units as per N.J.A.C. 5:93-9.3; and

(d) Manasquan will require a certificate of reoccupancy for any occupancy of a low or moderate income sales unit resulting from a resale in accordance with N.J.A.C. 5:93-9.3(c); and

(e) municipal, state, nonprofit and seller options regarding sale units will be consistent with N.J.A.C. 5:93-9.5-9.8. Municipal rejection, of repayment options for sale units will be, consistent with N.J.A.C. 5:93-9.9; and

(f) the continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:93-9.10; and

(g) eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:93-9.11; and

(h) the regulations detailed in N.J.A.C. 5:93-9.12 - 9.14 will be applicable to low and moderate income units that are for sale units.

(7) In zoning for inclusionary developments the following is required:

(a) low and moderate income units will be built in accordance with N.J.A.C. 5:93-5.6(d):

Minimum Percentage of Low/Moderate Income Units Completed	Percentage of Market Housing Units Completed
0	25
10	25 + 1
50	50
75	75
100	<u>90</u>
	100

(b) a design of inclusionary developments that integrates low and moderate income units with market units is encouraged in accordance with N.J.A.C. 5:93-5.6 (f)

(8) An affordable development fee ordinance, approved by COAH, was adopted by Manasquan as Ordinance No. 1833-00, Mandatory Affordable Housing Development Fee Ordinance.

(9) To provide assurances that low and moderate income units are created with controls on affordability over time and that low and moderate income households occupy these units, Manasquan will

designate the Municipal Administrator with the responsibility of ensuring the affordability of sales and rental units over time. The Municipal Administrator will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).

(a) In addition, the Municipal Administrator will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low and moderate income units; and

(b) newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least thirty (30) years. The Approving Board will require all conveyances of newly constructed units to contain the deed restriction and mortgage lien adopted by COAH and referred as Technical Appendix E as found in N.J.A.C. 5:93; and

(c) housing units created through the conversion of a nonresidential structure will be considered a new housing unit and will be subject to thirty (30) year controls on affordability. The Approving Board will require COAH's appropriate deed restriction and mortgage lien.

(10) Regarding rehabilitated units:

(a) rehabilitated owner-occupied single family housing units that are improved to code standard will be subject to affordability controls for at least six (6) years; and

(b) rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least ten (10) years.

(11) Regarding rental units:

(a) newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least thirty (30) years. The municipal authority will require the deed restriction and lien and deed of easement referred as Technical Appendix H in accordance with N.J.A.C. 5:93; and

(b) affordability controls in accessory apartments will be for a period of at least ten (10) years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15, then the controls on affordability will extend for thirty (30) years (N.J.A.C. 5:93-5.9); and

(c) alternative living arrangements will be controlled in a manner suitable to COAH, that provides assurances that such a facility will house low and moderate income households for at least ten (10) years except if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.15,

then the controls on affordability will extend for thirty (30) years (N.J.A.C. 5:93-5.8).

(12) Section 14(b) of the Fair Housing Act N.J.S.A. 52:27D-301 et seq. incorporates the need to eliminate unnecessary cost generating features from Manasquan's land use ordinances. Accordingly, Manasquan will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on affordable housing developments. Manasquan will adhere to the provisions of N.J.A.C. 5:93-10.1-10.3.

(13) Manasquan has a fair share obligation of 175 units of which 149 is new construction. The new construction obligation has been adjusted to zero due to lack of vacant developable land. For designated Affordable Housing Overlay Zones and for other inclusionary developments, this Section shall apply.

SECTION 3. If any parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency. All other parts of Chapter 35 of the Code of the Borough of Manasquan not inconsistent herewith are ratified and confirmed.

SECTION 5. This Ordinance shall become effective immediately following its final passage and publication as required by law, and filing with the Monmouth County Planning Board.

SECTION 6. Following adoption, copies of this Ordinance shall be filed with the Council on Affordable Housing, Municipal Administrator, Zoning Officer, Construction Official, Planning Board, Municipal Engineer, Planning Board Engineer,

Municipal Attorney, Planning Board Attorney and Municipal Affordable Housing Consultants.

NOTICE

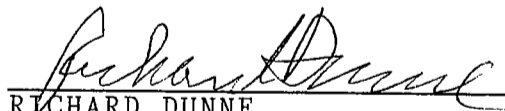
PUBLIC NOTICE IS HEREBY GIVEN that Ordinance No. 1934-04 was introduced at a meeting of the Mayor and Council of the Borough of Manasquan, in the County of Monmouth and State of New Jersey, on the 6th day of December, 2004, and was then read for the first time. The said Ordinance will be further considered for final passage by the Mayor and Council at Borough Hall at 8:00 p.m. on the 20th day of December, 2004. At such time and place, or at 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.



COLLEEN SCIMECA, RMC, CMC
Municipal Clerk

KENNETH B. FITZSIMMONS
Municipal Attorney
501 Trenton Avenue
Point Pleasant Beach, NJ 08742

APPROVED: December 20, 2004



RICHARD DUNNE
Mayor

First Reading and Introduction: December 6, 2004
Passed on First Reading: December 6, 2004
Second Reading and Final Hearing: December 20, 2004