

**ORDINANCE #9-01
ORDINANCE ESTABLISHING CHAPTER 28
OF THE JEFFERSON TOWNSHIP MUNICIPAL
CODE ENTITLED "DEVELOPMENT FEE
ORDINANCE" AND ESTABLISHING A PROCEDURE
FOR THE COLLECTION OF FEES TO FUND
AFFORDABLE HOUSING**

SECTION I

BE IT ORDAINED by the Township Council of the Township of Jefferson, Morris County, New Jersey, that there is hereby created Chapter 28 of the Jefferson Township Municipal Code entitled "Development Fee Ordinance", as follows:

28-1. **PURPOSE**

In Holmdel Builder's Ass'n. 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, N.J.S.A. 52:27D-301 et seq., and that the State Constitution subject to COAH developing rules. The purpose of this ordinance is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH's rules. 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.

28-2. **DEFINITIONS**

As used in this Chapter, the following terms shall have the meanings indicated:

COUNCIL or COAH - The New Jersey Council on Affordable Housing established under the Fair Housing Act of 1985.

DEVELOPMENT FEES - Money paid by an individual, person, partnership association, company or corporation for the improvement of property as permitted in COAH's rules.

EQUALIZED ASSESSED VALUE - The value of a property determined by the Township Tax Assessor through a process designed to ensure that all property in the township is assessed at the same assessment ratio or ratios required by law. Estimates at the time of building permit may be obtained by the tax assessor utilizing tax estimates for construction cost. Final equalized assessed value will be determined at project completion by the Township Tax Assessor.

SUBSTANTIVE CERTIFICATION - A determination by the Council approving a municipality's housing element and fair share plan in accordance with the provisions of the Fair Housing Act and the rules and criteria as set forth therein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions contained therein.

28-3. **RESIDENTIAL DEVELOPMENT FEES**

A developer of any major residential subdivision shall pay a development fee of one-half of one percent ($\frac{1}{2}\%$) of the equalized assessed value of any eligible residential activity pursuant to Section 6 of this ordinance.

28-4. **NON-RESIDENTIAL DEVELOPMENT FEES**

Developers of any major site plan or minor site plan resulting in the construction of at least 5,000 square feet of structure shall pay a fee of one percent (1%) of the equalized assessed value of eligible non-residential activities pursuant to Section 6 of this ordinance.

28-5. **ELIGIBLE EXACTION, INELIGIBLE EXACTION AND EXEMPTIONS**

a. Developers of low and moderate income units shall be exempt from paying development fees.

b. Developers that expand an existing structure shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.

c. Developers that have received preliminary or final approval prior to the effective date of this ordinance shall be exempt from paying a development fee unless the developer seeks a substantial change in the approval.

28-6. **COLLECTION OF FEES**

a. Developers shall pay fifty percent (50%) of the calculated development fee to the Township of Jefferson at the issuance of a building permit. The development fee shall be estimated by the tax assessor prior to the issuance of building permits.

b. Developers shall pay the remaining fee to the Township of Jefferson at the issuance of the certificates of occupancy or temporary certificates of occupancy. At the issuance of certificates of occupancy, the tax assessor shall calculate the equalized assessed value of the appropriate development fee. The developer shall be responsible for paying the difference between the fee calculated at the certificate of occupancy and the amount paid at the building permit.

28-7. **HOUSING TRUST FUND**

a. There is hereby created an interest bearing housing trust fund for the purpose of receiving development fees from residential and non-residential developers, which fund shall be separate and apart from all other funds of the Township. All development fees paid by developers pursuant to this ordinance shall be deposited in this fund. No money shall be expended from the housing trust fund unless the expenditure conforms to a spending plan approved by COAH.

b. If COAH determines that the Township of Jefferson is not in conformance with COAH's rules on development fees, COAH is authorized to direct the manner in which all development fees collected pursuant to this ordinance shall be expended. Such authorization is pursuant this ordinance; COAH's rules on development fees; and the written authorization from the governing body to the bank which is the depository of the trust fund.

28-8. **USE OF FUNDS**

a. Money deposited in a housing trust fund may be used for any activity approved by COAH for addressing the Township of Jefferson'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 roads and infrastructure 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 of Jefferson's housing element. The expenditure of all money shall conform to a spending plan approved by COAH.

b. At least thirty percent (30%) of the revenues collected shall be devoted to render units more affordable. Examples of such activities include, but are not limited to, down payment assistance, low interest loans and rental assistance.

c. No more than twenty percent (20%) of the revenues shall be expended on administrative costs necessary to develop, revise or implement the housing element. Examples of eligible administrative activities include: personnel, consultant services, space costs, consumable supplies and rental or purchase of equipment.

d. Development fee revenues shall not be expended to reimburse the Township of Jefferson for housing activities that precede substantive certification.

28-9. **EXPIRATION OF ORDINANCE**

This ordinance shall expire if:

a. COAH dismisses or denies the Township of Jefferson's petition for substantive certification;

b. COAH revokes substantive certification or its certification of this ordinance; and

c. Substantive certification/judgment of repose expires prior to the Township of Jefferson filing an adopted housing element with COAH, petitioning for substantive certification or receiving COAH's approval of this ordinance.

SECTION II

1. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

1. If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

1. This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

COUNCIL OF THE TOWNSHIP
OF JEFFERSON

LYDIA MAGNOTTI, CLERK

RICHARD YOCUM, PRESIDENT

DATED: March 7, 2000

ADOPTED: May 2, 2001