

,ORDINANCE NO. 04-22

AN ORDINANCE AMENDING AND SUPPLEMENTING THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF NEPTUNE, BY AMENDING SECTION 1001 ENTITLED AFFORDABLE HOUSING CONTRIBUTION IN ACCORDANCE WITH REQUIRED REVISIONS FROM THE COUNCIL ON AFFORDABLE HOUSING

WHEREAS, the Township of Neptune adopted a mandatory development fee ordinance on December 1, 2003; and,

WHEREAS, the Township of Neptune petitioned the Council of Affordable Housing (COAH) for review and approval of said ordinance; and,

WHEREAS, COAH has approved the Township ordinance subject to certain revisions,

THEREFORE, BE IT ORDAINED, BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE, IN THE COUNTY OF MONMOUTH THAT:

SECTION 1.

The Land Development Ordinance of the Township of Neptune and specifically Section 1001 entitled Affordable Housing Contribution shall be amended and supplemented as follows:

1001 - AFFORDABLE HOUSING CONTRIBUTION

- A. Purpose. The purpose of this subsection 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 monies for the rehabilitation of low and moderate-income housing. This Ordinance shall be interpreted within the framework of COAH's rules on development fees.
- B. Residential development fees. Developers of new residential dwelling unit(s) shall pay a development fee of one-third of one percent (0.33%) of the equalized assessed value of newly constructed residential dwelling unit(s). Developers that construct improvements to a structure or on a property which (a) facilitates new dwelling units where none currently exist; or, (b) results in an increase in the number of dwelling units existing in the structure or on the property shall pay a development fee.
- C. Nonresidential development fees. All developers of non-residential uses, shall pay a development fee of one-half of one percent (0.5%) of the equalized assessed value for non-residential development.
- D. Eligible exaction, ineligible exaction and exemptions.
  - 1. Developers of low and moderate-income units shall be exempt from paying development fees, provided the development includes low- or

moderate-income dwelling units. If a development is a mixed-use inclusionary project, both the residential and nonresidential portions of the inclusionary development shall be exempt from payment of development fees.

2. Developers that have received a 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. A “substantial change” is a revision to an approved preliminary or final site plan or subdivision which meets any one (1) of the following limitations:\*

- (a) Five (5) feet of improvements into any yard setback;
- (b) Seven (7) feet in building height;
- (c) One (1) percent in floor area ratio;
- (d) One (1) percent in impervious coverage;
- (e) Five (5) feet in building spacing or location;
- (f) Three (3) parking spaces;
- (g) Five (5) feet in driveway locations;
- (h) One (1) percent in site disturbances;
- (i) Five (5) feet in lot line locations;
- (j) Any change in residential density;
- (k) Any new variances pursuant to N.J.S.A. 40-55D-70.c or d;
- (l) Any such change enumerated above shall not alter the percentage of low/moderate income housing in an approved project, if applicable.

\* A substitution of similar landscaping material, lighting fixtures and signage is not a substantial change as long as there is no change in approved quantities or dimensions.

3. Public governmental agencies and schools, which are classified by the Tax Assessor as exempt from payment of property taxes (Property Classes 15A & 15C), shall be exempt from paying development fees.

4. An expansion of any existing residential use that does not result in an increase in the number of dwelling units on the property shall be exempt from paying development fees.

5. Development fees shall be calculated based on the increase in the equalized value as a result of the development. In the event of a mixed-

use project, the development fees shall be calculated as the sum of the separate fees for the residential and nonresidential components of the development.

- E. Collection of fees. Developers shall pay up to fifty (50) percent of the calculated development fee to Neptune Township at the issuance of construction permits. At the issuance of certificates of occupancy, the appropriate development fee shall be based on one of the options in Subsections B & C above. The developer shall be responsible for paying the difference between the fee calculated and paid at construction permit and the fee calculated at issuance of certificate of occupancy. The entire fee may also be paid at the issuance of the certificate(s) of occupancy.
- F. Housing trust fund.
1. There is hereby created an interest bearing housing trust fund for the purpose of receiving development fees from residential and nonresidential developers. 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.
  2. If COAH determines that the Township of Neptune 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 to: this ordinance, COAH's rules on development fees and the written authorization from the governing body to the bank in which the housing trust fund is located.
- G. Use of funds.
1. Money deposited in a housing trust fund may be used for any activity approved by COAH for addressing Neptune Township's low and moderate income-housing obligation. Such activities may include, but are not necessarily limited to, housing rehabilitation and administrative costs necessary to implement Neptune Township Master Plan Housing Element. The expenditure of all money shall conform to a spending plan approved by COAH.
  2. No more than twenty (20) percent 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 directly associated with plan development or plan implementation.
  3. Development fee revenues shall not be expended to reimburse Neptune Township for housing activities that preceded a first or second round substantive certification.

H. Expiration of ordinance. This subsection of the Land Development Ordinance shall expire if:

1. COAH revokes this subsection; or
2. COAH's approval for urban aid municipalities to collect development fees expires.

SECTION 2 This ordinance shall take effect after publication and passage according to law.

APPROVED ON FIRST READING: May 24, 2004

APPROVED, PASSED AND ADOPTED: June 14, 2004

ATTEST:

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Richard J. Cuttrell,  
Municipal Clerk

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Thomas J. Catley,  
Mayor