

**TOWNSHIP OF MOORESTOWN**

**ORDINANCE NO. 7-2026**

**AMENDS CHAPTER 158, SUBDIVISION OF LAND ARTICLE VI,  
ENTITLED “MANDATORY DEVELOPMENT FEES,” OF THE  
CODE OF THE TOWNSHIP OF MOORESTOWN  
TO CONFORM TO N.J.A.C. 5:99**

**WHEREAS**, the Township Council of the Township of Moorestown, a municipal corporation in the County of Burlington, State of New Jersey, finds that the public health, safety, morals, and general welfare of the community shall be promoted by the revision and amendment of the affordable housing impact fee regulations of the Township; and

**WHEREAS**, the Planning Board of the Township of Moorestown has adopted a Housing Element of the Master Plan providing for the appropriate use and development of lands in the Township in a manner which will promote the public health, safety, morals, and general welfare in the provision of affordable housing in furtherance of the constitutional obligations of the municipality; and

**WHEREAS**, in Holmdel Builder’s Association 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 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the adoption of appropriate administrative rules; and

**WHEREAS**, Pursuant to P.L.2024, c.2 section 30 and P.L. 2024, c.6, section 2 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act, P.L. 2008, c.46, section 8 (C. 40:55D-8.1 through 8.7), the NJ Department of Community Affairs is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Affordable Housing Dispute Resolution Program or County-Level Judge of the Superior Court and have an approved spending plan may retain and collect fees from residential and non-residential development.

**WHEREAS**, the NJ Department of Community Affairs promulgated N.J.A.C. 5:99 in 57 N.J.R. 2807(a) on December 15, 2025, thereby creating the basis for this amendment to Chapter 158 of the local ordinances of the Township of Moorestown.

**NOW, THEREFORE, BE IT ENACTED and ORDAINED** by the Township Council of the Township of Moorestown, in the County of Burlington, that Article VI, Mandatory Development Fees, be amended as follows:

**Section 1.** Article VI, Mandatory Development Fees, shall be amended to read as follows. Text within brackets, [thus], is explanatory and not intended to be enacted.

**Article VI. Mandatory Development Fees**

**§ 158-40. Purpose.**

- A. Purpose and Operative Clause. This article establishes standards for the collection, maintenance and expenditure of development fees. No expenditure of funds in the Moorestown Township Affordable Housing Trust shall occur without first petitioning the Affordable Housing Dispute Resolution Program and/or Superior Court for approval of its Fourth Round Housing Element and Fair Share Plan, including its Spending Plan, and being granted such petition by appropriate Order of the Court.
  
- B. Inception and Affordable Housing Trust Fund. The Township of Moorestown established a Mandatory Development Fee regulation in Ordinance No. 1823-97, adopted on June 2, 1997 as part of its Second Round Housing Element and Fair Share Plan, which also created the Affordable Housing Trust Fund within the accounts of the municipality. Nothing herein shall be construed to interrupt the ability of the municipality to continue to collect such fees for deposit into the Affordable Housing Trust Fund in accordance with the operative administrative rules or court order at the time of the approval of its Spending Plan(s) during the pendency of its Fourth Round or subsequent housing rounds, provided the municipality is following the Fair Housing Act and associated administrative rules or court directives to obtain approval of its HEFSP, including its Spending Plan.

**§ 158-41. Residential development fees required.**

- A. [Unchanged]
- B. [Unchanged]
- C. [Unchanged]

**§ 158-42. Nonresidential development fees required.**

- A. [Unchanged]
- B. [Unchanged]
- C. [Unchanged]

**§ 158-43. Exemptions; expansions; changes in approval.**

The following provisions shall only apply to those development fees paid into the township's housing trust fund pursuant to this Article VI (Mandatory Development Fees).

- A. Residential Development.
  - (1) 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 an eligible payment in lieu of on-site construction of affordable units, if permitted by ordinance, or by agreement with the municipality and

if approved by a municipality prior to the statutory elimination of payments in-lieu on March 20, 2024 per P.L.2024, c.2, shall be exempt from development fees.

- (2) [Unchanged]
- (3) [Unchanged]
- (4) No development fee shall be collected for the demolition and replacement of a residential building resulting from a fire or natural disaster.

B. [Unchanged]

**§158-44. Collection of fees.**

A. [Unchanged]

B. [Unchanged]

C. [Unchanged]

D. [Unchanged]

E. [Unchanged]

F. [Unchanged]

G. [Unchanged]

H. [Unchanged]

I. [Unchanged]

J. [Unchanged]

K. Ongoing Collection of Fees.

- (1) The ability to impose, collect and expend development fees shall continue so long as the municipality retains authorization from the Court in the form of Compliance Certification or the good faith effort to obtain it.
- (2) If the municipality fails to renew its ability to impose and collect development fees prior to the expiration of its 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 N.J.S.A. 52:27D-320.

**§158-45. Affordable Housing Trust Fund.**

- A. The Moorestown Affordable Housing Trust Fund previously established shall be maintained as a separate, interest-bearing account by the chief financial officer of the municipality for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- B. The following additional funds shall be deposited in the Housing Trust Fund and shall at all times be identifiable by source and amount:
  - (1) Prior payments in lieu of on-site construction of affordable units shall be identifiable for historical purposes only since no additional payments may be accepted per P.L. 2024, c. 2;
  - (2) Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - (3) Rental income from municipally operated units;
  - (4) Repayments from affordable housing program loans;
  - (5) Recapture funds;
  - (6) Proceeds from the sale of affordable units; and
  - (7) Any other funds collected in connection with Moorestown's affordable housing program.
- C. The municipality shall provide the Division with written authorization, in the form of a tri-party escrow agreement(s) between the municipality, the Division and the financial institution in which the municipal affordable housing trust fund has been established to permit the Division to direct the disbursement of the funds as provided for in N.J.A.C. 5:99-2.1, et seq.
- D. Occurrence of any of the following deficiencies may result in the Division requiring the forfeiture of all or a portion of the funds in the municipal Affordable Housing Trust Fund:
  - (1) Failure to meet deadlines for information required by the Division in its review of a development fee ordinance;
  - (2) Failure to commit or expend development fees within four years of the date of collection in accordance with N.J.A.C. 5:99-5.5;
  - (3) Failure to comply with the requirements of the Non-Residential Development Fee Act and N.J.A.C. 5:99-3;
  - (4) Failure to submit accurate monitoring reports pursuant to this subchapter within the time limits imposed by the Act, this chapter, and/or the Division;

- (5) Expenditure of funds on activities not approved by the Superior Court or otherwise permitted by law;
  - (6) Revocation of compliance certification or a judgment of compliance and repose;
  - (7) Failure of a municipal housing liaison or administrative agent to comply with the requirements set forth at N.J.A.C. 5:99-6, -7, and -8;
  - (8) Other good cause demonstrating that municipal affordable housing funds are not being used for an approved purpose.
- E. All interest accrued in the housing trust fund shall only be used on eligible affordable housing purposes approved by the Court.

**§158-46. Use of funds.**

- A. **Spending Plan Required.** The expenditure of all funds shall conform to a Spending Plan approved by Superior Court. Funds deposited in the municipal Affordable Housing Trust Fund may be used for any activity approved by the Court to address the 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 Superior Court and specified in the approved Spending Plan.
- B. Funds shall not be expended to reimburse the municipality or activities that occurred prior to the authorization of a municipality to collect development fees.
- C. **Affordability Assistance.** At least a portion of all development fees collected and interest earned shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. A portion of the development fees which provide affordability assistance shall be used to provide affordability assistance to very low-income households.
- (1) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, infrastructure assistance, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

- (2) Affordability assistance for very low income households may include producing very low-income units or buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
- D. Administration. No more than 20% of all affordable housing trust funds, exclusive of those collected to fund an RCA prior to July 17, 2008, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare and implement a Housing Element and Fair Share Plan, administer an Affirmative Marketing Program and for compliance with the Superior Court and the Program including the costs to the municipality of resolving a challenge.
- E. Emergent Affordable Housing Opportunities. Requests to expend affordable housing trust funds on emergent affordable housing opportunities not included in the municipal fair share plan shall be made to the Division and shall be in the form of a governing body resolution. Any request shall be consistent with N.J.A.C. 5:99-4.1.

#### **§158-47. Monitoring**

The Township of Moorestown shall complete all monitoring forms as indicated in Chapter 97, Section 6 of the Code of Ordinances, of the municipality.

**Section 2.** Continuation. In all other respects the Moorestown Code of Ordinances, as amended and supplemented, shall remain in full force and effect.

**Section 3.** Severability. If any portion of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part thereof. Any invalidation shall be confined in its operation to the section, paragraph, sentence, clause, phrase, term, or provision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 4.** Interpretation. If the terms of this Ordinance shall be in conflict with those of another Ordinance of the Code of the Township of Moorestown, then the restriction which imposes the greater limitation shall be enforced.

**Section 5.** Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only.

**Section 6.** Enactment. This ordinance shall not be effective until approved by Order of the Affordable Housing Dispute Resolution Program or Superior Court and upon the filing thereof with the Burlington County Planning Board after final passage, adoption, and publication by the Township Council of the Township of Moorestown in the manner prescribed by law.

**CERTIFICATION**

I, Vicki M. Gough, Deputy Township Clerk, hereby certify that the attached is a true and correct copy of Ordinance No. 7-2026 which was introduced and adopted on first reading on February 23, 2026 and heard on second reading and was duly adopted by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey at a meeting of the Township Council held on March 9, 2026.

<u>VOTE:</u>	
LAW	YES
KEATING	YES
BADER	YES
BARRY	YES
MAMMARELLA	YES

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Vicki M. Gough, RMC  
Deputy Township Clerk