

**ORDINANCE NO. 03-2026
BOROUGH OF SEA GIRT**

**ORDINANCE AMENDING CHAPTER 17 “ZONING”, SECTION 17.5 GENERAL
REGULATIONS, SECTION 17-5.26.1 AMENDING MANDATORY AFFORDABLE
HOUSING SET ASIDE REQUIREMENT IN CONFORMANCE WITH THE
REQUIREMENTS OF THE AMENDED FAIR HOUSING ACT**

WHEREAS, the Borough of Sea Girt, County of Monmouth, State of New Jersey, (hereinafter, "Borough" or "Sea Girt") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations and in fact obtained a Final Round Three Judgment of Compliance and Repose from the Court in the matter captioned In the Matter of the Application of the Borough of Sea Girt, County of Monmouth, Superior Court of New Jersey, Law Division, Docket No. MON-L-002312-20 thereby immunizing the Borough from builder remedy litigation until July 1, 2025 (the “Third Round Litigation”); and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act") establishing the statutory calculation of the state-wide fair share obligation for the Fourth Round of affordable housing for the time period 2025-2035; and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide its calculation of every municipality’s Fourth Round fair share affordable housing obligations based upon the criteria on the Amended FHA and the DCA issued a report on October 18, 2024 (the "DCA Report") wherein it supplied its calculation of the fair share affordable housing obligation for all municipalities, including the Borough of Sea Girt; and

WHEREAS, the DCA Report calculated Sea Girt Fourth Round fair share obligations as follows: Present Need (Rehabilitation) Obligation of 0 and a Fourth Round Prospective Need (New Construction) Obligation of 73 affordable housing units; and

WHEREAS, the Borough Council adopted Resolution 09-2025 accepting the DCA calculation of the Borough Fourth Round affordable housing obligation of a Present Need Obligation of 0 units and a Fourth Round Prospective Need obligation of 73 units, subject to the Borough’s right to a Vacant Land Adjustment in accordance with N.J.S.A 52:27D-311 of the Amended Act; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24 dated December 13, 2024 and pursuant to that Directive, a municipality seeking a certification of compliance with the Act is required to file a legal action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, the Borough filed a timely declaratory judgment complaint in accordance with AOC Directive #14-24 known as In the Matter of the Application of the Borough of Sea Girt, County of Monmouth, State of New Jersey, Docket No. MON-L-000337-25 seeking a declaration as to the Borough’s Fourth Round affordable housing obligation and the approval of the Borough’s Housing Element and Fair Share Plan (“HESP”) which sets forth the affordable housing mechanisms the Borough will implement to satisfy its Fourth Round affordable housing obligation; and

WHEREAS, the Court entered an order on April 1, 2025 setting the Borough's Fourth Fair Share obligations a Present Need of zero units and a prospective need of 73 units and ordered the Borough to file a Housing Element and Fairs Plan by June 30, 2025; and

WHEREAS, the Borough filed its HESP after the Combined Planning and Zoning Board approved the HESP and the Council endorsed the HESP setting forth the Borough is entitled to a Vacant Land Adjustment adjusting the Borough's Realistic Development Potential to zero with a 73-unit unmet need of 73 units, and

WHEREAS, Fair Share Housing enter having filed al etter pursuant to NJSA 52:27D-304.1(f)(2)(b) seeking additional information before the HESP may be approved; and

WHEREAS, the Borough and Fair Share having entered into a Consent Order approving the Borough's amended HESP subject to certain conditions which must be met under the Amended FHA by March 15, 2026.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Girt, County of Monmouth, State of New Jersey, that it hereby amends Chapter 17, Section 5.26.1 entitled "Mandatory Affordable Housing Set-Aside Ordinance as follows:

[changes are underlined and deletions are marked through strike-out]

Section 5.26.

a. **Background.** This Ordinance is required by the implementation of the ~~Settlement Agreement with Fair Share Housing center in the matter captioned in the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division Monmouth County, Docket No. L-02312-2020~~ Consent Order with Fair Share Housing Center in the matter captioned In the Matter of the Application of the Borough of Sea Girt, Superior Court of New Jersey, Law Division-Monmouth County, Docket No. L-337-2025.

b. [No changes]

c. **Other Terms Applicable.** The following terms shall apply to any residential development subject to the mandatory affordable housing set-aside

[subsections 1-3 No changes}

4. All affordable units created shall fully comply with the Borough's affordable housing regulations in its Affordable Housing Ordinance, as well as the New Jersey Fair Housng Act, (N.J.S.A. 52:27D-301, et. seq., and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC"), including but not limited to the requied bedroom and income distribution, with the sole exception that at least 13% of the affordable units shall be rrequired bedroom and income distribution, with the sole exception that at least thirteen percent (13%) of the affordable units_ shall be required to be restricted for very-low-income households earning thirty percent (30%) or less of the median income pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA").

1. At least fifty percent (50%) of the affordable units within each bedroom distribution shall be affordable to low-income households, inclusive of the at least thirteen percent (13%) of units affordable to very-low-income households.
2. 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 efficiency/one-bedroom very-low-income units exceed the number of three-bedroom very-low-income units.
3. Affordable units shall be integrated with the market-rate units on-site, meaning the type of housing units as the market rate units shall be same housing unit type as the type affordable units (market rate building available to families shall not be developed to provide age-restricting hosing units), and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units, this shall mean that the affordable units shall be generally distributed within each building with market-rate units. The affordable units shall also be of the same type as the market-rate units (e.g., if the market-rate units are non-age-restricted family units, the affordable units shall be non-age-restricted family units as well). The residents of the affordable units shall have full and equal access to all of the amenities, common areas, and recreation areas and facilities as the residents of the market-rate units.
4. Affordable units shall be subject to affordability controls of at least forty years for rental units and not less than thirty (30) years for sale units from the date of initial occupancy and affordable deed restrictions as otherwise provided for by UHAC, with the sole exception that very low income shall be defined as at or below thirty percent (30%) of median income pursuant to the Fair Housing Act, and the affordability controls shall remain unless and until the municipality, in its sole discretion, takes action to extend or release the unit from such controls after at least forty or thirty (30) years, respectively for rental units and for-sale units. In the event the municipality chooses to release the controls on rental affordable units after at least forty (40) ~~thirty (30)~~ years, the controls shall remain in effect until the voluntary departure of the occupant household in accordance with N.J.A.C. 5:80-26.11(b).

[subsections 5-13 No changes].

d. **Severability.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect and shall be deemed valid and effective.

e. **Inconsistencies.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the municipality, the provisions hereof shall be

determined to govern and those inconsistent provisions shall be repealed to the extent of such inconsistency.

f. **Referral to Planning Board.** A copy of this Ordinance shall be referred to the Planning Board following its introduction for review pursuant to N.J.S.A. 40A:55D-26A.

g. **Effective Date and Scope.** This Ordinance shall immediately take effect upon its passage and publication, and as otherwise provided for by law. The provisions of this Ordinance shall be applicable within the entire municipality upon final adoption and shall become a part of the Code once completed and adopted.

CERTIFICATION

I, Dawn Harriman, Clerk of the Borough of Sea Girt, do hereby certify the above to be a true and exact copy of the Ordinance adopted after a public hearing thereon held on the 11th day of March, 2026.

Dawn Harriman

Dawn Harriman, RMC
Borough Clerk

Introduced: February 4, 2026
Adopted: March 11, 2026