

Please take notice that the following Ordinance was adopted on first reading by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey, at a meeting held on the 1st day of March 2018. The Ordinance was then ordered to be published according to law. Notice is hereby given that the said Ordinance will be considered for final passage after a public hearing to be held on the 5th day of April, 2018 at a meeting beginning at 7:00 PM at the Municipal Building located on the corner of County Road 519 and Oak Grove Road, Kingwood Township, New Jersey, at which time all interested parties will be heard.

ORDINANCE NO. 19-09-2018

ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT CHAPTER 132 ZONING, ARTICLE I, GENERAL PROVISIONS, SECTION 132-13 “DEVELOPMENT FEES” THAT PROVIDES FOR THE COLLECTION OF DEVELOPMENT FEES IN SUPPORT OF AFFORDABLE HOUSING AS PERMITTED BY THE NEW JERSEY FAIR HOUSING ACT

WHEREAS, consistent with the terms of settlement in the agreement by and between the Township of Kingwood and Fair Share Housing Center, dated November 2, 2017, (Court Settlement) establishing Kingwood Township’s Fair Share Plan for Third Round Mount Laurel compliance, and in accordance with compliance conditions established by Kingwood Township’s Superior Court Master for the granting of a judgment of compliance and repose for the Third Round; certain ordinances are required to guide affordable housing compliance in a manner that is consistent with current conditions and the Court Settlement; and

WHEREAS, Kingwood Township has previously adopted a “Development Fees” ordinance that addresses the requirements for affordable housing development fee collections as previously published by the New Jersey Council on Affordable Housing (COAH) for the Third Round; and

WHEREAS, Kingwood Township’s Court Settlement requires that instead of COAH’s approval of the Township’s Development Fee ordinance and authorization of Affordable Housing Trust Fund expenditures, Court Approval is required, and the Kingwood Township Committee is desirous of appropriately amending and supplementing the existing Kingwood Township Development Fees ordinance to reflect the terms of the Court Settlement;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Kingwood, Hunterdon County, New Jersey, as follows:

Section 1. § 132-13. G. Affordable Housing Trust Fund, subsection (3) is hereby repealed and replaced with the following new subsection (3):

(3) In the event of a failure by the Township of Kingwood to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds

within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Kingwood, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

Section 2. § 132-13. H. Use of funds, subsection (1) is hereby repealed and replaced with the following new subsection (1):

(1) The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Township of Kingwood's 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; Regional Housing Partnership programs; 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 the Court and specified in the approved Spending Plan.

Section 3. § 132-13. I. Monitoring. is hereby repealed and replaced with the following new subsection I.:

I. Monitoring.

The Township of Kingwood shall provide annual reporting of Affordable Housing Trust Fund Activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity including the sources and amounts of funds collected and the amounts and purposes for which any

funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Township), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Township-owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Kingwood's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

Section 4. § 132-13.J. Ongoing collection of fees. is hereby repealed and replaced with the following new subsection J. Ongoing collection of fees:

J. Ongoing Collection of Fees.

(1) The ability for the Township of Kingwood to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Township of Kingwood has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

(2) If the Township of Kingwood 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 Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

(3) The Township of Kingwood shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Township of Kingwood retroactively impose a development fee on such a development unless the Township of Kingwood has fulfilled the requirements for the ongoing collection of fees identified in § 132-13-J.(1) above. The Township of Kingwood also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance unless the Township of Kingwood has fulfilled the requirements for the ongoing collection of fees identified in § 132-13-J.(1) above.

Section 5. This ordinance may be renumbered for codification purposes.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any

reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as provided by law.

**TOWNSHIP COMMITTEE OF
TOWNSHIP OF KINGWOOD**

Richard Dodds, Mayor

ATTEST: April 5, 2018

**Cynthia L. Keller, RMC
Township Clerk**

Introduction: March 1, 2018

Publication: March 8, 2018

Final Adoption:

Publication By Title Only:

ROLL CALL VOTE	MOVED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
T. Ciacciarelli						
M. Syrnick						
R. Dodds						