

Introduced: May 9, 2022
Adopted: May 31, 2022

ORDINANCE NO. 2022-12

**TOWNSHIP OF EASTAMPTON
BURLINGTON COUNTY**

**AN ORDINANCE AMENDING CHAPTER 130 OF THE TOWNSHIP CODE FOR
MANDATORY AFFORDABLE HOUSING SET-ASIDES**

Chapter 130 Affordable Housing is revised as set forth below. Insertion of new language is shown in boldface and deletion of existing language is stricken through.

§ 130-1. Affordable housing obligation.

A. This article is intended to assure that **very-low**, low and moderate-income units (“affordable units”) are created with controls on affordability over time and that **very-low**, low and moderate-income households shall occupy these units. This article shall apply where inconsistent with applicable law.

B. The Township Land Use Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Eastampton Township shall address its fair share for **very-low**, low and moderate-income housing as determined by the Council on Affordable Housing (COAH), **or by the court**, and documented in the Housing Element.

~~C. This article implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.~~

~~D. Eastampton Township shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Eastampton Township Municipal Building, Municipal Clerk's office, Manor House, 12 Manor House Court, Eastampton, New Jersey 08060, or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dea/affiliates/coah.~~

On September 13, 2022, and every anniversary thereafter, the Township shall provide annual reporting of 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 housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

E. On September 13, 2022, and every anniversary thereafter, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC. The report shall detail the status of all mechanisms in this Agreement. Township shall promptly respond to any requests for additional information from the Court or FSHC.

F. For the midpoint realistic opportunity review required pursuant to N.J.S.A. 52:270-313, the Township was obligated to post, by July 1, 2020, on its municipal website, a status report as to its implementation of its Housing Element and Fair Share Plan and an analysis of whether any un-built sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms should be revised or supplemented.

Recognizing that July 1, 2020, has passed prior to settlement of this matter, the Township shall, by July 1, 2023, post, on its municipal website, with a copy provided to Fair Share Housing Center, its midpoint realistic opportunity review report. The status report will provide an update of the Township's implementation of its HEFSP and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether the mechanisms should be revised or supplemented.

Such posting shall invite any interested party to submit comments to the Township, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether the mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.

G. For the review of very-low-income housing requirements required by N.J.S.A. 52:27D-329.1, within thirty (30) days of the third anniversary of the Judgment of Compliance and Repose, and every third year thereafter, the Township will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very-low-income requirements, including the family very-low-income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very-low-income housing obligation under the terms of this settlement.

§ 130-2. Definitions

ADMINISTRATIVE AGENT - The entity responsible for the administration of affordable units in accordance with this article, N.J.A.C. 5:93, N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC (N.J.A.C. 5:80-26).

AFFORDABILITY AVERAGE – The average percentage of median income at which restricted units in an affordable housing development are affordable to **very-low**, low and moderate-income households.

AFFORDABLE – A sales price or rent within the means of a **very-low**, low or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE UNIT — A housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:93-3, N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

CERTIFIED HOUSEHOLD — A household that has been certified by an administrative agent as a very low-income household, low-income household or moderate-income household.

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973. c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

FAIR SHARE PLAN – the plan that describes the mechanisms and the funding sources, if applicable, by which a municipality proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:97-3.

GREEN BUILDING STRATEGIES – Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

HOUSING PLAN ELEMENT – The portion of the Township's Master Plan required by the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-28b(3) and other legislation.

MEDIAN INCOME – The median income by household size for the applicable county, as adopted annually by COAH, or by the United States Housing and Urban Development Agency, or by other sources recognized and approved by the court.

MUNICIPAL HOUSING LIAISON — A municipal employee responsible for oversight of the municipal affordable housing program, including overseeing the administration of affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent.

REGIONAL ASSET LIMIT – The maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by COAH's adopted Regional Income Limits published annually by COAH, or by other sources recognized and approved by the court.

§ 130-3. Affordable housing programs.

A. A rehabilitation program.

- (1) Eastampton Township's rehabilitation program shall be designed to renovate deficient housing units occupied by **very-low**, low and moderate-income households, such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
- (4) Eastampton Township shall dedicate a minimum of \$10,000, **which may be increased from time to time as indicated in an approved spending plan**, for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
- (5) Eastampton Township shall designate, subject to the approval of COAH, **or the court**, one or more administrative agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and 5:97. The administrative agent(s) shall provide a rehabilitation manual for the owner-occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of COAH. Both rehabilitation manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).

§ 130-4. New construction.

The following general guidelines apply to all newly constructed developments that contain **very-low**, low and moderate-income housing units, including any currently unanticipated future developments that will provide *very-low*-, low- and moderate-income housing units.

A. **Very-low/low/moderate split and bedroom distribution of affordable housing units:**

- (1) The fair share obligation shall be divided equally between low (**including very-low**) and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. **At least 13% of the restricted units within each bedroom distribution shall be very-low income units. The very-low income units shall be counted as part of the required number of low-income units within the development.**
- (2) In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units (**including very-low**).
- (3) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - a. The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total **very-low**, low and moderate-income units;
 - b. At least 30% of all **very-low**, low and moderate-income units shall be two-bedroom units;
 - c. At least 20% of all **very-low**, low and moderate-income units shall be three-bedroom units; and
 - d. The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

C. Maximum rents and sales prices.

- (1) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in **the Uniform Housing Affordability Controls Act (UHAC)** and in COAH rules, utilizing the regional income limits established by COAH, **or by other sources recognized and approved by the court and detailed below.**
 - (a) **Regional income limits shall be established for the region in which the Township is located (i.e. Region 5) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8**

income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. The income limits calculated each year shall be the result of applying the percentages set forth above to HUD's determination of median income for the relevant fiscal year, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year. In no event shall the income limits be less than those for the previous year.

- (b) The regional asset limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the regional asset limit be less than that for the previous year.

~~(2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.~~

~~(3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. At least 10% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.~~

~~(4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.~~

(2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52% of median income.

(3) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13% of all low- and moderate- income rental units shall be affordable to very low-income households earning no more than 30% of median income.

(4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units. In achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type. Low-income ownership units must be available for at least two different sales prices for each bedroom type .

~~(5) In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted-living facilities, the following standards shall be used:~~

~~**(a)** A studio shall be affordable to a one-person household;~~

~~(b) A one-bedroom unit shall be affordable to a one and one-half person household; and~~

~~(c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.~~

D. Construction phasing of market-rate and affordable housing units. The construction phasing of the market-rate and affordable housing units shall comply with the following requirements:

Minimum Percentage of Market-Rate Units Completed	Minimum Percentage of Affordable Units Completed
25	0
25, plus 1 unit	10
50	50
75	75
90	100

A unit shall be deemed complete when its certificate of occupancy has been issued.

E. Design.

(1) In inclusionary developments, to the extent possible, very-low-, low- and moderate-income housing units shall be integrated with the market-rate housing units. The affordable units shall not be concentrated in separate building(s) or in separate area(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).

(2) In inclusionary developments, very-low-, low- and moderate-income housing units shall have access to all of the same common elements and facilities as the market-rate housing units. 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.

F. Utilities.

- (1) **Affordable housing units shall utilize the same type of hearing source as market-rate housing units within an inclusionary development.**

§ 130-5. Affirmative marketing requirements.

- A. Eastampton Township shall adopt by resolution an affirmative marketing plan, subject to approval of COAH, **or the court**, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented. **The affirmative marketing shall ensure that all affordable units are posted on the New Jersey Housing Resource Center website in accordance with applicable law and that direct notice of availabilities are provided to the regional and community organizations identified in the Township's settlement with Fair Share Housing Center.**
- B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 5 ~~comprised of~~ **consisting of** Burlington, Camden and Gloucester ~~Counties~~.

§ 130-14. Administration.

- A.(2) The person appointed as the MHL must be reported to COAH, **or the court**, for approval.
- B. The Township of Eastampton shall designate by resolution of the Township, subject to the approval of COAH, **or the court**, one or more administrative agents to administer newly constructed affordable housing units in accordance with N.J.A.C. 5:96, and 5:97, and UHAC.
- C. An operating manual shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of COAH, **or the court**. The Operating Manuals shall be available for public inspection in the office of the Municipal Clerk and in the office(s) of the administrative agent(s).
- D.(1) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH, **or by other entities recognized and approved by the court.**

Article II. Development Fees.

§ 130-18. Basic requirements.

- A. This article shall not be effective until approved by **the court or** COAH pursuant to N.J.A.C. 5:96-5.1.3
- B. Eastampton Township shall not spend development fees until **the court or** COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

§ 130-23. Affordable housing trust fund.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

(8) Interest income earned from funds of the Affordable Housing Trust Fund deposited in an interest-bearing bank account.

~~C. Within seven days from the opening of the trust fund account, Eastampton shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, Beneficial Bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).~~

D. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by **the Court**. ~~COAH~~.

§ 130-24. Use of funds.

A. The expenditure of all funds shall conform to a spending plan approved by *the court or* COAH. Funds deposited in the housing trust fund may be used for any activity approved by **the court or** COAH to address the Eastampton Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to:

(14) Convert low- and moderate-income housing units into very-low-income housing units.

§ 130-25. Monitoring.

~~A. Eastampton Township shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Eastampton Township's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.~~

On September 13, 2022, and every anniversary thereafter, the Township shall provide annual reporting of 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 housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- B. In the event of a failure of Eastampton to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports, or a failure to implement the approved Spending Plan, or a failure to expend funds within the applicable time period as set forth in N.J.S.A. 52:27D-329.2(d), or for other good cause demonstrating unapproved use(s) of funds, a motion may be brought before the Superior Court. The Court may, after considering the evidence and providing the City a reasonable opportunity to respond and/or remedy the non-compliant conditions, impose such remedies as may be reasonable and appropriate to the circumstances, including but not limited to authorizing the State of New Jersey, Department of Community Affairs, Division of Local Government Services, to direct the manner in which the funds shall be expended.


§ 130-26. Ongoing collection of fees.

- A. The ability for Eastampton Township to impose, collect and expend development fees shall expire with its substantive certification unless Eastampton Township has filed an adopted Housing Element and Fair Share Plan with **the court or COAH and has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Eastampton has petitioned for substantive certification, it may continue to impose and collect fees but it shall not expend such fees until its Spending Plan is approved by the court or COAH.**
- B. If Eastampton Township fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal 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 (N.J.S.A. 52:27D-320). ~~Eastampton Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Eastampton Township retroactively impose a development fee on such a development.~~ Eastampton Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance **unless and until its Spending Plan is approved by the court or COAH.**

Adoption: May 31, 2022

ATTEST:


KIM-MARIE WHITE
Municipal Clerk


ANTHONY ZENO
Mayor

Introduction: May 9, 2022

Council	Motion	2 nd	Ayes	Nays	Abstain	Absent
Councilman Apgar		✓	✓			
Councilman Besko			✓			
Councilman Santillo			✓			
Councilman Springer	✓		✓			
Mayor Zeno			✓			
		VOTE	5	0		

Adoption: May 31, 2022

Council	Motion	2 nd	Ayes	Nays	Abstain	Absent
Councilman Apgar	✓		✓			
Councilman Besko			✓			
Councilman Santillo		✓	✓			
Councilman Springer						✓
Mayor Zeno			✓			
		VOTE	4	0		