

**BOROUGH OF ALLENDALE
COUNTY OF BERGEN**

ORDINANCE NO. 18-22

AN ORDINANCE OF THE BOROUGH OF ALLENDALE, COUNTY OF BERGEN AND STATE OF NEW JERSEY AMENDING CHAPTER 81 "AFFORDABLE HOUSING" TO THE CODE OF THE BOROUGH OF ALLENDALE

WHEREAS, the Mayor and Council of the Borough of Allendale, Bergen County, adopted on September 27, 2018, Ordinance No. 18-13 which repealed outdated affordable housing requirements in the Borough's Code at Article II, "Development Fees", of Chapter 120, "Fees", and Articles XXVIII, XXXI, and XXXII of Chapter 270, "Zoning", which pertained to affordable housing, and created Chapter 81, "Affordable Housing", which codifies the rules and regulations of the Council on Affordable Housing, as modified by the September 15, 2017 Settlement Agreement with Fair Share Housing Center, in the Borough Code; and

WHEREAS, the Mayor and Council wish to revise the content of that Ordinance and Chapter to better serve the Borough in implementing its affordable housing plan.

NOW, THEREFORE, BE IT ORDAINED, that the Mayor and Council of the Borough of Allendale hereby amend Chapter 81, "Affordable Housing," as follows. All amendments shall be in bold text. Text to be deleted shall be indicated with ~~striketroughs~~, and new text shall be indicated with underlines.

Section I. Section 81-4.c.1 of Article I, "General Program Purposes, Procedures" Amended.
Footnote 1 of this section shall also be struck.

...

1. The base dollar amount of the payment in-lieu of constructing an affordable unit at the time of adoption of this Ordinance shall be ~~\$180,267¹~~ pursuant to COAH's regulations and/or the amount in a development proforma on file with the Borough Clerk. This amount shall be adjusted periodically by the Borough to reflect the most current and accurate market conditions or better cover the cost to the Borough to subsidize affordable housing construction. The payment shall be imposed as a condition of development approval by the Joint Land Use Board.
 - (a) During the development approval process, a developer may demonstrate to the Governing Body that the actual construction cost of an affordable unit less estimated capitalized revenue at the development in question is lower than the imposed payment in-lieu in §81-4.C.1. At its discretion, the Governing Body may impose a ~~lower~~ payment in-lieu amount equal or proximate to the amount estimated by the developer.

Section II. Section 81-21, "Conversions", in Article II, "Affordable Unit Controls and

Requirements, Amended.

Each **affordable** housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

Section III. Section §81-34., "Affordable Housing Trust Fund", in Article IV, "Development Fees" Amended.

- A. ~~There shall be maintained. There is hereby created~~ a separate interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.

...

Section IV. Section 81-37, "Ongoing Collection of Fees" in Article IV, "Development Fees" Amended.

- A. The ability for Allendale to impose, collect and expend development fees shall expire with its Court-issued Judgment of Compliance and Repose unless Allendale has filed an adopted Housing Element and Fair Share Plan with the Court or other appropriate jurisdiction, has filed a Declaratory Judgment Action, and has received the Court's approval of its development fee ordinance. If Allendale fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance and Repose, 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). Allendale shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment Compliance and Repose, nor shall Allendale retroactively impose a development fee on such a development. Allendale shall not expend development fees after the expiration of its Judgment of Compliance and Repose.

Section V. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section VI. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section VII. Effective Date. This ordinance shall take effect upon its passage and publication, as

required by law.

| | Motion | Second | Yea | Nay | Absent | Abstain |
|------------|--------|--------|-----|-----|--------|---------|
| Bernstein | | | ✓ | | | |
| Homan | | | ✓ | | | |
| O'Connell | | | | | ✓ | |
| Sasso | | | | | ✓ | |
| Strauch | | ✓ | ✓ | | | |
| Wilczynski | ✓ | | ✓ | | | |
| White | | | | | | |

I hereby certify the above to
be a true copy of an Ordinance
adopted by the **Governing Body**
of the Borough of Allendale on
November 19, 2018



Anne Dodd, RMC
Municipal Clerk


Mayor Elizabeth White