

NOTICE is hereby given that the foregoing Ordinance was introduced on first reading at a regular meeting of the Committee of the Township of Kingwood held on December 6, 2018, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on December 28, 2018 at 3:00p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 599 Oak Grove Road, Frenchtown, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

ORDINANCE NO. 19-22-2018

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;

WHEREAS, Kingwood Township amended portions of Chapter 132-13 entitled “Development Fees” on April 5, 2018, and those amendments have been reviewed by the Court Master and been accepted; however, the Court Master has identified additional ordinance amendments necessary to the “Development Fees” ordinance for consistency with the Township’s Third Round settlement agreement and the Court process for obtaining a judgment of compliance and repose;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Kingwood, Hunterdon County, New Jersey, that Chapter 132, Zoning, Article I. General Provisions is hereby supplemented and amended, as follows:

Section 1. Amend § 132-13. A. Purpose, subsections A.(2) and A.(3) to read as follows (note to codifier: text removed from this subsection is shown as strikethrough text “~~thus~~” and text added is shown as underlined text “thus”):

- (2) Pursuant to P.L. 2008, c. 46, § 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH 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 ~~Council or court~~ Court of competent jurisdiction and have a ~~COAH~~ Court-approved spending plan may retain fees collected from nonresidential development.

- (3) This section establishes standards for the collection, maintenance, and expenditure of development fees pursuant to ~~COAH's regulations and the Court's approval~~ in accordance with P.L. 2008, c. 46, §§ 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. ~~This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.~~

Section 2. Amend § 132-13. B. Basic requirements., subsections B. (1) and B. (2) to read as follows (note to codifier: text removed from these existing subsections is shown as strikethrough text "~~thus~~" and text added is shown as underlined text "thus"):

(1) This section shall not be effective until approved by ~~COAH pursuant to N.J.A.C. 5:96-5.1~~ the Court.

(2) Kingwood Township shall not spend development fees until ~~COAH~~ the Court 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.~~

Section 3. Amend § 132-13. G. Affordable Housing Trust Fund., subsection G.(4) to read as follows (note to codifier: text removed from this existing subsection is shown as strikethrough text "~~thus~~" and text added is shown as underlined text "thus"):

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

Section 4. Amend the last sentence of § 132-13. H. Use of funds., subsection H.(5) to read as follows (note to codifier: text removed from this existing subsection is shown as strikethrough text "~~thus~~" and text added is shown as underlined text "thus"):

(5) ... Legal or other fees related to litigation opposing affordable housing sites or ~~objecting to the Council's regulations and/or action~~ appealing the Court's rulings are not eligible uses of the Affordable Housing Trust Fund.

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: December 6, 2018

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

Introduction: December 6, 2018
Publication: December 13, 2018
Final Adoption: December 28, 2018
Publication By Title Only: January 10, 2018

ROLL CALL VOTE:

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
T. Ciacciarelli						
M. Syrnick						
R. Dodds						

I, **Cynthia L. Keller**, Clerk of the Township of Kingwood, County of Hunterdon and State of New Jersey do hereby certify the foregoing to be a true copy of **Ordinance No. 19-22-2018** adopted by the Kingwood Township Committee on December 28, 2018.

Cynthia L. Keller, RMC
Township Clerk