

ORDINANCE NO. 3, 2023

AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING CHAPTER 124, DEVELOPMENT FEES, SECTION 124-4 RESIDENTIAL DEVELOPMENT FEES OF THE CODE OF THE CITY OF LINWOOD IN COMPLIANCE WITH A SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CORPORATION AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT THEREWITH

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey that Chapter 124, Development Fees, Section 124-4 Residential Development Fees of the Code of the City of Linwood be and hereby is amended as follows:

SECTION 1:

§ 124-4 **Residential development fees.**

A. Imposed fees.

(1) Within the zoning districts allowing residential development, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1 1/2% of the equalized assessed value for residential development, provided that no increased density is permitted.

(2) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d variance") has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

(3) Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 1/2% of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided that zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

B. Eligible exactions, ineligible exactions and exemptions for residential development.

(1) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

(2) Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- (3) Deleted in its entirety.
- (4) Deleted in its entirety.

SECTION 2: All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3: 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.

SECTION 4: This Ordinance shall take effect upon passage and publication as provided by law.

<i>FIRST READING:</i>	<i>February 8, 2023</i>
<i>PUBLICATION:</i>	<i>February 13, 2023</i>
<i>PASSAGE:</i>	<i>February 22, 2023</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, February 8, 2023 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on February 22, 2023.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

DARREN MATIK, MAYOR