

ORDINANCE NUMBER 02-2026

FIRST READING/
INTRODUCTION: January 5, 2026

SECOND READING/
PUBLIC HEARING/
ADOPTION: February 11, 2026

ORDINANCE

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**ORDINANCE OF THE BOROUGH OF EAST NEWARK CREATING
CHAPTER 13 TITLED “AFFORDABLE HOUSING” TO CREATE THE
POSITION OF THE MUNICIPAL HOUSING LIAISON FOR THE
BOROUGH OF EAST NEWARK**

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal, and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the Borough of East Newark is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, in March 2024, New Jersey enacted significant legislation aimed at reforming the state's affordable housing framework, known as Senate Bill S50 and Assembly Bill A4, which was signed by Governor Murphy on March 20, 2024, representing a major overhaul of how municipalities address their affordable housing obligations under the Mount Laurel Doctrine; and,

WHEREAS, the legislation signed by Governor Murphy on March 20, 2024, formally abolished the Council on Affordable Housing (“COAH”) and transferred the responsibilities for affordable housing planning to the Department of Community Affairs (“DCA”); and

WHEREAS, pursuant to P.L. 2024, c.2, the Borough of East Newark is required to appoint a Municipal Housing Liaison for the oversight of administration of the Borough of East Newark’s affordable housing program to enforce the requirements of the law and N.J.A.C. 5:80-26.1 et seq.; and

WHEREAS, there exists a need to amend Chapter 13 entitled Affordable Housing to create the position for the appointment of a Municipal Housing Liaison to administer the Borough of East Newark’s affordable housing program.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of East Newark do hereby amend the Ordinance to create the position for the appointment of a Municipal Housing Liaison to administer the Borough of East Newark’s affordable housing program:

§ 13-2 Municipal Housing Liaison.

§ 13-2.1 Purpose.

The purpose of this Article is to create the administrative mechanisms needed for the execution of the Borough of East Newark's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

§ 13-2.2 Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ADMINISTRATIVE AGENT — Shall mean the entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of East Newark to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

MUNICIPAL HOUSING LIAISON — Shall mean the employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Borough of East Newark.

DEPARTMENT OF COMMUNITY AFFAIRS – Shall mean the Department of Community Affairs as established under the laws of the State of New Jersey, which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State, which shall also include any current or future office, department or body authorized under State Law with primary or concurrent jurisdiction for the administration of housing obligations.

§ 13-2.3 Establishment of Municipal Housing Liaison Position and Compensation: Powers and Duties.

- a. Establishment of Position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of East Newark.
- b. Subject to the approval of the Department of Community Affairs ("DCA"), the Municipal Housing Liaison shall be appointed by the governing body and may be a full or part-time municipal employee.
- c. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of East Newark, including the following responsibilities which may not be contracted out, exclusive of item 6 which may be contracted out:
 1. Serving as the Borough of East Newark's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 2. Monitoring the status of all restricted units in the Borough of East Newark's Fair Share Plan;
 3. Compiling, verifying, and submitting annual reports as required by the DCA;

4. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the DCA;
 6. If applicable, serving as the Administrative Agent for some or all of the restricted units in the Borough of East Newark as described in Subsection f below.
- d. Subject to approval by the DCA, the Borough of East Newark may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of the Borough of East Newark except for those responsibilities which may not be contracted out pursuant to Subsection c above. If the Borough of East Newark contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- e. Compensation. Compensation, if any, shall be determined by the governing body at the time of the appointment of the Municipal Housing Liaison.
- f. Administrative Powers and Duties Assigned to the Municipal Housing Liaison.
1. Affirmative Marketing.
 - a. Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of East Newark and the provisions of N.J.A.C. 5:80-26.15; and
 - b. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 2. Household Certification.
 - a. Soliciting, scheduling, conducting and following up on interviews with interested households;
 - b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
 - e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - f. Employing the random selection process as provided in the Affirmative

Marketing Plan of the Borough of East Newark when referring households for certification to affordable units.

3. Affordability Controls.

- a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
- d. Communicating with lenders regarding foreclosures; and
- e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resale and Rental.

- a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
- b. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Request from Unit Owners.

- a. Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
- b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air-conditioning systems; and
- c. Processing requests and making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement.

- a. Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;

- b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - c. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;
 - d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - e. Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
 - f. Creating and publishing a written operating manual, as approved by the DCA, setting forth procedures for administering such affordability controls; and
 - g. Providing annual reports to the DCA as required.
7. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
8. All or some of the provisions above in Subsection f may be specifically delegated at a later date to an approved Administrative Agent as part of a contract.

SECTION TWO

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION THREE

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FOUR

In order to avoid accidental repeal of existing provisions, the Borough Clerk and Borough Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION FIVE

When Effective. This Ordinance shall take effect upon passage and publication as required by law.

SUMMARY OF ORDINANCE

This Ordinance amends Chapter 13 to create the position of Municipal Housing Liaison for the oversight of administration of the Borough of East Newark's affordable housing program to enforce the requirements of the law and N.J.A.C. 5:80-26.1 et seq.

ORDINANCE 02-2026

Introduced: January 7, 2026

Introduction – First Reading

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Evaristo		X	X			
K. Graham						X
R. Graham			X			
Pinto			X			
Zincavage	X		X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on Wednesday, January 7, 2026.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

ORDINANCE 02-2026

Adopted: February 11, 2026

Adoption – Second Reading

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Evaristo			X			
K. Graham		X	X			
R. Graham						X
Pinto			X			
Zincavage	X		X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading after a public hearing, by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on Wednesday, February 11, 2026.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

Resolution # 15-26
1-7-2026

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**RESOLUTION APPOINTING JENIFFER DA SILVA AS MUNICIPAL HOUSING LIAISON
FOR THE BOROUGH OF EAST NEWARK**

WHEREAS, the Borough of East Newark petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan; and

WHEREAS, Borough of East Newark's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the Borough is required to appoint a Municipal Housing Liaison for the administration of the Borough's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the Borough of East Newark has amended Chapter 13 entitled Affordable Housing to provide for the appointment of a Municipal Housing Liaison to administer the Borough's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Borough Council for the Borough of East Newark, County of Hudson, State of New Jersey that Jeniffer Da Silva is hereby appointed as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Chapter 13 of the Code.

BE IT FURTHER RESOLVED, that said appointment is hereby effective as of January 5, 2026.

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Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira		X	X			
Evaristo			X			
K. Graham						X
R. Graham			X			
Pinto			X			
Zincavage	X		X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Mayor and Borough Council at their reorganization meeting held on Wednesday, January 7, 2026.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

ORDINANCE NUMBER 17-2025

FIRST READING/
INTRODUCTION: November 12, 2025

SECOND READING/
PUBLIC HEARING/
ADOPTION: December 29, 2025

ORDINANCE

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

AN ORDINANCE OF THE BOROUGH OF NEW EAST NEWARK, COUNTY OF HUDSON,
STATE OF NEW JERSEY, AMENDING CHAPTER 32 TO CREATE A NEW SECTION
ENTITLED "AFFORDABLE HOUSING DEVELOPMENT FEES"

BE IT ORDAINED by the Mayor and the Borough Council of the Borough of East Newark, that Chapter 32 entitled "Affordable Housing Development Fees," is hereby established to read as follows:

§32-1 Purpose

A. In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH).

B. Pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was 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 were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential development.

C. This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing in accordance with a Court-approved Spending Plan.

D. On March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 (hereinafter "A4" or "Amended FHA"), which, among other things, formally abolished COAH. However, because new regulations regarding the preparation and implementation of a development fee ordinance have not been adopted, the following ordinance continues to apply the standards consistent with COAH's regulations.

§32-2 Basic Requirements

A. This Ordinance shall not be effective until approved by the Court or body of competent jurisdiction.

B. The Borough of East Newark shall not spend development fees until the Court or body of competent jurisdiction has approved a plan for spending such fees (Spending Plan).

§32-3 Definitions

The following terms, as used in this Ordinance, shall have the following meanings:

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

"Development fee" means money paid by a developer for the improvement of property as permitted at N.J.A.C. 5:97-8.3.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Equalized assessed value" means 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 (C.54:1-35a through C.54:1-35c).

"Green building strategies" means 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.

§32-4 Residential Development Fees

A. Imposition of Fees

1) Within the Borough of East Newark, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.

2) When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. 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.

B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments

- 1) Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, 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) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.
- 4) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- 5) Where there is an improvement to, expansion of, reconstruction or replacement of an existing residential structure requiring a Construction Permit, no development fee shall be required to be paid. The construction or improvement of a permitted accessory structure on a lot containing an existing residential structure shall not require the payment of a development fee.
- 6) Developers of houses of worship and other uses that are entitled to exemption from New Jersey real property tax shall be exempt from the payment of a development fee, provided that such development does not result in the construction of any additional housing or residential units, including assisted living and continuing care retirement communities.

§32-5 Non-Residential Development Fees

A. Imposition of Fees

- 1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- 2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- 3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the nonresidential development fee shall be zero.

B. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development

- 1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.
- 2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.
- 3) Non-residential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.
- 4) A developer of a non-residential development exempted from the nonresidential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- 5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of East Newark as a lien against the real property of the owner.
- 6) Pursuant to P.L. 2009, c. 90 and P.L.2011, c. 122, the non-residential statewide development fee of two and one-half (2.5%) percent for non-residential development is suspended for all non-residential projects that received preliminary or final site plan approval subsequent to July 17, 2008 until July 1, 2013, provided that a permit for the construction of the building has been issued prior to January 1, 2015.

§32-6 Collection Procedures

- A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.

D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should the Borough of East Newark fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

H. Except as provided in Section 5.A.3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

I. Appeal of Development Fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of East Newark. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of East Newark. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§32-7 Affordable Housing Trust Fund

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of East Newark for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

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:

1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of East Newark;

- 2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
- 3) Rental income from municipally operated units;
- 4) Repayments from affordable housing program loans;
- 5) Recapture funds;
- 6) Proceeds from the sale of affordable units; and
- 7) Any other funds collected in connection with East Newark's affordable housing program.

C. In the event of a failure by the Borough of East Newark 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) (affd 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 Borough of East Newark, 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.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court or body of competent jurisdiction.

§32-8 Use of Funds

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court or body of competent jurisdiction. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court/body of competent jurisdiction to address the Borough of East Newark'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 nonresidential 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 or body of competent jurisdiction and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of East Newark for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of the median income for Housing Region 2, in which East Newark is located.

1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

2) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of East Newark, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of East Newark may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

§32-9 Monitoring

The Borough of East Newark shall provide annual reporting of Affordable Housing Trust Fund activity through the DCA monitored online Affordable Housing Monitoring System. 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 Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with East Newark's affordable housing

programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by a Court or body of competent jurisdiction.

§32-10 Ongoing Collection of Fees

A. The ability for the Borough of East Newark to impose, collect and expend development fees shall expire with the expiration of the Fourth Round when at such time, a new Housing Element and Fair Share Plan will be required to be prepared and adopted.

B. If the Borough of East Newark 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).

C. The Borough of East Newark shall not impose a residential development fee on a development that receives preliminary or final site plan approval should the Borough not receive approval of this development fee, nor shall the Borough of East Newark retroactively impose a development fee on such a development.

ORDINANCE 17-2025
 Introduced: November 12, 2025

Introduction – First Reading

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira		X	X			
Diaz			X			
Evaristo			X			
Graham	X		X			
Reis			X			
Zincavage			X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on Wednesday, November 12, 2025.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

ORDINANCE 17-2025
 Adopted: December 29, 2025

Adoption – Second Reading

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Diaz		X	X			
Evaristo						X
Graham			X			
Reis			X			
Zincavage	X		X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading after a public hearing, by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on Monday, December 29, 2025.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

ORDINANCE NUMBER 16-2025

FIRST READING/
INTRODUCTION: November 12, 2025

SECOND READING/
PUBLIC HEARING/
ADOPTION: December 29, 2025

ORDINANCE

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**AN ORDINANCE OF THE BOROUGH OF EAST NEWARK, COUNTY OF HUDSON,
STATE OF NEW JERSEY TO ADDRESS THE BOROUGH'S COMPLIANCE
WITH ITS AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough Council of the Borough of East Newark, Hudson County, New Jersey, based upon the recommendations of the Borough's professionals, desires to amend Chapter 33 of the Code of the Borough of Keyport to create Section 33-2.1, entitled "Mandatory Affordable Set-Aside" to include provisions addressing the Borough's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985, N.J.S.A.52:27D-301 et. seq.; and

WHEREAS, the East Newark Borough Planning Board has prepared a Round Four Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., and

WHEREAS, this Ordinance implements and incorporates the prepared Round Four Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

NOW THEREFORE, BE IT ORDAINED that Chapter 33 Section 33-2.1, entitled "Mandatory Affordable Set-Aside," of the Code of the Borough of East Newark is hereby created to read as follows:

§25-1-15.21 Mandatory Affordable Set-Aside.

All multi-family developments producing 5 or more units shall have a required affordable housing set-aside of 20% for all projects. The 20% set-aside shall be restricted to low and moderate income households. Fractions of .49 or less may be rounded down; fractions of .50 or more shall be rounded up.

All affordable units created under this section shall be developed in accordance with the New Jersey Fair Housing Act of 1985, N.J.S.A.52:27D-301 et. seq. as amended (the "FHA") and the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq., as amended (the "UHAC"). This standard shall apply to all multi-family developments that apply for site plan approval after the date of adoption of this ordinance, including any future redevelopment or rehabilitation areas designated within the Borough pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12a-1 et. seq.

All affordable housing units shall comply with the Borough's affordable housing regulations in its Affordable Housing Ordinance, as well as the FHA and the UHAC. This shall include but is not limited to:

- i. The requirement that at least thirteen percent (13%) of the affordable units within each bedroom distribution shall be required to be for very low income households earning thirty (30%) or less of median income,
- ii. Appropriate bedroom distribution of 1-, 2-, and 3-bedroom units,
- iii. Recording of appropriate affordability controls of not less than forty (40) years for rental units and not less than thirty (30) years for sale units, and
- iv. Minimum unit sizes by square footage for affordable housing units.

The affordable units shall be affirmatively marketed in accordance with UHAC and applicable law. The affirmative marketing shall include the community and regional organizations identified by the Borough, and it shall also include posting of all affordable units on the New Jersey Housing Resource Center website in accordance with applicable law.

The affordable units shall be integrated with the market-rate units, and the affordable units shall not be concentrated in separate building(s) or in separate area(s) or floor(s) from the market-rate units. In buildings with multiple dwelling units of similar tenure, this shall mean that the affordable units shall be generally distributed within each building with market 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. The affordable units shall be the same type of housing unit as the market rate units, meaning that a market rate building available to families shall not be developed to provide age-restricted housing units.

BE IT FURTHER ORDAINED that construction of the affordable units in inclusionary developments shall be phased in compliance with N.J.A.C. 5:93-5.6(d).

BE IT FURTHER ORDAINED copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Borough Clerk.

BE IT FURTHER ORDAINED this ordinance shall take effect upon final passage and publication according to law.

BE IT FURTHER ORDAINED the Borough Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J. S.A. 40:550-15. Upon adoption of this Ordinance, after public hearing thereon, the Borough Clerk is further directed to publish notice of passage thereof and file a copy of this Ordinance as finally adopted with the County Planning Board as required by N.J.S.A. 40:550-16 and with the Borough Tax Assessor.

BE IT FURTHER ORDAINED all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

BE IT FURTHER ORDAINED if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a 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.

ORDINANCE 16-2025
 Introduced: November 12, 2025

Introduction – First Reading

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Diaz			X			
Evaristo			X			
Graham	X		X			
Reis			X			
Zincavage		X	X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on Wednesday, November 12, 2025.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

ORDINANCE 16-2025
 Adopted: December 29, 2025

Adoption – Second Reading

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Diaz			X			
Evaristo						X
Graham		X	X			
Reis			X			
Zincavage	X		X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading after a public hearing, by the Mayor and Borough Council at a public meeting of the Mayor and Borough Council held on Monday, December 29, 2025.



 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk